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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Index No. 1:22-cv-05860

-----x
AMILEE CATTOUSE, a/k/a SHAILA SCOTT,
Plaintiff,

-against-

MEDIACO HOLDING, INC. and EMMIS
COMMUNICATIONS CORPORATION,
Defendants.

-----x

May 31, 2023
10:15 A.M.

DEPOSITION of MEDIACO HOLDING, INC., by PIO
FERRO, one of the Defendants herein, taken by
the Plaintiff, pursuant to Order, held via
Zoom, before Lisa H. MacDonald, RPR, and Notary
Public of the State of New York.

A P P E A R A N C E S :

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COMMUNICATIONS

BY: SHAWN MATTHEW CLARK, ESQ.

JASON BYRD, ESQ.

A P P E A R A N C E S :

ALSO PRESENT:

Celeste McCaw, Esq., In-House Counsel MediaCo
Holding

Brad Tobin, Esq., COO and General Counsel,
MediaCo Holding

Elizabeth Ellis, Esq., In-House Counsel Emmis
Communications Corporation

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that the filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to before any notary public with the same force and effect as though signed and sworn to before this Court.

1 P. Ferro

2 MS. REPORTER: Shawn, are
3 you ordering a copy of the
4 transcript?

5 MR. CLARK: Yes, please.

6 P I O F E R R O , after having first been
7 duly sworn by a Notary Public of the State of
8 New York, was examined and testified as
9 follows:

10 MS. REPORTER: Mr. Ferro,
11 what is your present business
12 address?

13 THE WITNESS: 395 Hudson
14 Street, New York, 7th Floor, 10014.

15 EXAMINATION BY

16 MR. LICUL:

17 Q Good morning, Mr. Ferro.

18 A Good morning.

19 Q My name is Valdi Licul. I
20 represent Shaila Scott in this action and
21 I'm going to be taking your deposition
22 today.

23 A Okay.

24 Q Have you ever been deposed
25 before?

1 P. Ferro

2 A No.

3 Q Have you ever given
4 testimony under oath in any kind of
5 proceeding?

6 A Yes.

7 Q When did you give testimony
8 under oath?

9 A God, it was well over 10
10 years ago, 12 years ago. I can't recall
11 exactly when, but -- and when you say
12 under oath, like I've spoken to lawyers
13 for other cases, but I've never -- like
14 I've never been in a situation like this.

15 Q Do you see the court
16 reporter made you swear to tell the truth
17 just now?

18 A Yes. That's never happened
19 to me before.

20 Q Never happened before, so
21 when you said that you gave some
22 testimony under oath 10 or 12 years ago,
23 what were you referring to?

24 A It was a case that a former
25 company that I worked for had and they

1 P. Ferro

2 asked me questions.

3 Q Who asked you questions?

4 A They're in-house lawyer.

5 Q What was the former company?

6 A Spanish Broadcasting System.

7 Q And what kind of a case was
8 it?

9 A It was I had left the
10 company by that time, so I was actually
11 in a whole different market and they flew
12 out to speak with me and for the life of
13 me I can't fully remember what it was
14 about. They wanted to ask me about one
15 of the employees that I worked with that,
16 you know, that I worked with. I can't --
17 it was so long ago.

18 Q Was it your understanding
19 that the employee had brought a case
20 against that company?

21 MR. MORO: Note my objection
22 to form.

23 A I can't remember.

24 Q All right. Well, let me go
25 over some ground rules for today's

1 P. Ferro

2 deposition, is that all right?

3 A Of course.

4 Q So as you can tell, you are
5 under oath. Do you know what that means?

6 A Yes.

7 Q What do you understand that
8 to mean?

9 A That I have to tell the
10 whole truth and I swore to God that I
11 would.

12 Q And you understand that if
13 you do not tell the truth and make false
14 statements that are material, that that
15 could be a crime of perjury?

16 MR. MORO: Objection to
17 form.

18 A Yes.

19 Q Because we have a court
20 reporter here today, you and I have to
21 try not to speak over each other. I'm
22 going to be asking the questions, you
23 will be doing the answering. I ask that
24 you please let me finish my question
25 before you begin an answer. Do you

1 P. Ferro

2 understand that?

3 A Yes.

4 Q And I will try my best to
5 let you finish your answer before I begin
6 a question. If I don't, I apologize in
7 advance, but please let me know and I'll
8 let you finish your answer. Do you
9 understand that?

10 A Yes.

11 Q Also because we have a court
12 reporter here who's taking everything
13 down, you have to verbalize your answers.
14 You can't just nod or shake your head.
15 Do you understand that?

16 A Yes.

17 Q Are you on any medication or
18 do you have any medical condition that
19 would impair your ability to testify here
20 today?

21 A No.

22 Q How's your memory?

23 A It's good.

24 Q You don't have any medical
25 issues with your memory; correct?

1 P. Ferro

2 A No.

3 Q All right. If I ask a
4 question that you do not understand,
5 please let me know and I will rephrase
6 the question. Do you understand that?

7 A Yes.

8 Q If you answer my question, I
9 will assume that you understand it. Do
10 you understand that?

11 A Yes.

12 Q All right. Did you do
13 anything to prepare for today's
14 deposition?

15 A I spoke with my -- with
16 MediaCo counsel.

17 Q Who's the counsel you spoke
18 with?

19 A With Chris Moro.

20 Q Anyone else?

21 A Beth Ellis was in the room
22 and -- well, via Zoom and so was Celeste
23 McCaw.

24 Q Anyone else?

25 A Brad was also present and

1 P. Ferro

2 Tara was on as well.

3 Q Anyone else?

4 A No. Oh, I'm sorry, I'm
5 sorry, Shawn.

6 Q Shawn Clark was present?

7 A Yes, via Zoom.

8 Q And Shawn Clark is counsel
9 for Emmis; correct?

10 A I -- I don't know. I just
11 met Shawn yesterday.

12 Q And is that when the prep
13 session occurred?

14 A Yes.

15 Q How long did it last?

16 A Five hours.

17 Q Did you review any documents
18 to prepare for today's deposition?

19 A Yes. I reviewed a couple of
20 documents.

21 Q Other than the one prep
22 session from yesterday, did you speak to
23 anyone else to prepare for today's
24 deposition?

25 A No.

1 P. Ferro

2 Q All right. You said you
3 reviewed a couple of documents. What
4 documents did you review?

5 A A research study that was
6 done by a third party and an e-mail.
7 That's what I remember looking at.

8 Q Anything else?

9 A That's pretty much it.

10 Q Who was the third party that
11 prepared that research study?

12 A It's Strategic Media
13 Solutions.

14 MR. LICUL: Chris, I assume
15 that's a document that was produced
16 to it?

17 MR. MORO: Can you hear me?

18 MR. LICUL: Yes.

19 MR. MORO: I believe so, but
20 I'll check and if it hasn't I'll be
21 happy to produce it.

22 MR. LICUL: Thank you.

23 MR. MORO: Just follow up in
24 writing.

25 Q What was the e-mail that you

1 P. Ferro

2 reviewed?

3 A It was an e-mail that I sent
4 to Brad with options for on air for the
5 radio station WBLS.

6 Q And who is Brad?

7 A Brad Tobin is our chief
8 operating officer and he's also an
9 attorney.

10 Q But his role at the company
11 is chief operating officer?

12 A That's what I understand,
13 yes.

14 Q And does MediaCo have a
15 separate legal department?

16 MR. MORO: Objection to
17 form.

18 A Celeste McCaw is part of our
19 legal department, I'm not sure and I know
20 that Chris is working with us here.

21 Q I'm asking about internally
22 at MediaCo. Is there a general counsel
23 for MediaCo?

24 A Would be Celeste --

25 Q Okay.

1 P. Ferro

2 A -- Celeste McCaw.

3 Q Are there any other lawyers
4 that are part of general counsel's office
5 at MediaCo?

6 A Not to my knowledge.

7 Q By the way, what was the
8 date of this study that you reviewed?

9 A It would have been -- the
10 study takes several weeks, so it was
11 springtime of last year. It was in the
12 field early April, late March. Early
13 April we started getting data, mid April,
14 middle of April.

15 Q And when did MediaCo
16 commission that study?

17 A Late February.

18 Q And what was the purpose for
19 MediaCo commissioning that study?

20 A Perceptual studies like that
21 one are standard practice in the radio
22 broadcasting industry and we here at
23 MediaCo, the schedule is one year one of
24 our station gets it, the next year the
25 next station gets it and it's a study to

1 P. Ferro

2 check on the health of the radio station,
3 check on the health of our competitors.
4 It's a very healthy sample. It's 500
5 people that use the brand in question and
6 are in that universe and we usually do it
7 around springtime. Springtime is my
8 preference.

9 Q And this particular study
10 was for BLS; correct?

11 A Yes, this one was.

12 Q And which one of the
13 stations had a study prepared last year?

14 A The previous one was Hot 97.

15 Q And when was that?

16 A That one because of the
17 pandemic, our schedule got -- got messed
18 up. I want to say that the last one that
19 we did for Hot was 2019 and that's why we
20 were due for one for WBLS. It had been
21 some time.

22 Q Do you recall which station
23 was subject to the study in 2018?

24 A As I mentioned we rotated,
25 so 2018 might have been WBLS.

1 P. Ferro

2 Q And did you rotate sort of
3 each year, so one year was BLS, the next
4 year was Hot and then BLS, then Hot; is
5 that right?

6 A Correct. Yes.

7 Q And had you done one for Hot
8 97 --

9 A Yes.

10 Q -- since the pandemic?

11 A Sorry.

12 MR. MORO: Just wait until
13 he finishes the question.

14 THE WITNESS: Yup.

15 A Since the pandemic, no.

16 Q So the last one you did for
17 Hot 97, to your recollection, was in
18 2019?

19 A Yes. Correct.

20 Q All right. And do you
21 expect to do one for Hot 97 in the
22 future?

23 A Yes.

24 Q And when is that?

25 A For next year.

1 P. Ferro

2 Q Why did you not do one this
3 year for Hot 97?

4 A Budgetary restraints.

5 Q Let's get to the e-mail you
6 reviewed and you said you sent that to
7 Brad; correct?

8 A Correct.

9 Q Anyone else?

10 A Rahsan Lindsay was also
11 copied.

12 Q And who is that?

13 A He's our CEO.

14 Q Does Brad, to your
15 knowledge, report up to Lindsay?

16 MR. MORO: Objection to the
17 form.

18 A What I understand is they
19 are equal in -- equally in charge, so I'm
20 not sure what the reporting structure is.

21 Q Have you ever seen an org
22 chart for MediaCo?

23 A No.

24 Q And who do you report to?

25 A I report to Brad.

1 P. Ferro

2 Q And do you recall what it is
3 you wrote to Brad in that e-mail?

4 A Yes. I shared findings that
5 the study uncovered and I presented a
6 plan to move forward with the findings.

7 Q What are the findings that
8 you recall sharing with Brad?

9 A The findings that I shared
10 were opportunities to expand the
11 listenership of WBLS. There was -- it's
12 a perceptual study, so it's what's on
13 people's minds. So I shared a lot of
14 findings, you know, the initial findings
15 that have been shared with me.

16 Q Who's Kevin?

17 A Kevin is the president of
18 the research company and he's the person
19 I worked directly with.

20 Q So you wrote to Brad and in
21 the e-mail you shared with Brad your
22 findings, correct or the findings that
23 Kevin made; correct?

24 A The findings that Kevin made
25 that he was, yeah, that he was sharing

1 P. Ferro

2 with me, correct.

3 Q And then you said you also
4 shared with Brad your plan. What was
5 your plan?

6 MR. MORO: Note my objection
7 to form.

8 A At the moment the plan to
9 adjust and reorganize the station, which
10 is usually what those tests show us, you
11 know, show the radio broadcaster, you
12 know, what to do.

13 Q But what was the plan that
14 you shared with Brad about how to adjust
15 and reorganize the station?

16 MR. MORO: Note my objection
17 to form.

18 A I can't recall exactly, so I
19 would be paraphrasing. I don't know if
20 that's okay with you.

21 Q Tell me what you remember
22 sharing with Brad about your plan.

23 A I --

24 MR. MORO: Objection again.

25 You can go ahead.

1 P. Ferro

2 A I remember sharing
3 opportunities to grow the station, the
4 station audience, make it appeal to even
5 more people than what it does and that
6 was the -- that was the major finding.

7 Q Were there any --

8 A The major --

9 Q I'm sorry, please finish.

10 A Oh, I was just going to say
11 that was the major finding that the study
12 pointed us towards. As any business, we
13 want to grow and the study said here's an
14 opportunity and, you know, based on their
15 findings.

16 Q Were there any minor
17 findings that you shared with Brad?

18 MR. MORO: Objection to
19 form.

20 A Minor findings? I'd have to
21 review the e-mail again. I mean I -- you
22 know, I'd have to review the e-mail
23 again.

24 Q What did you say to Brad
25 about the opportunity to grow the

1 P. Ferro

2 station's audience?

3 A That we had found the
4 audience available to grow it, to be able
5 to expand even further from where the
6 station is now.

7 Q What was the audience that
8 you found?

9 MR. MORO: Objection to
10 form.

11 A The audience that we found
12 was there was a 35 to 44 demo that could
13 be better served.

14 Q And what did you say to Brad
15 in the e-mail about how you could better
16 serve that audience?

17 MR. MORO: Objection to
18 form.

19 A I'd have to review the
20 e-mail again.

21 Q You don't recall anything
22 about what you said to Brad about that?

23 A That e-mail was written over
24 a year ago and I didn't study it
25 yesterday. I saw it and --

1 P. Ferro

2 Q But you wrote the e-mail
3 over a year ago; correct?

4 A Yes. Correct.

5 Q And you reviewed it again
6 yesterday; correct?

7 MR. MORO: Objection to
8 form.

9 A I looked at it yesterday
10 thinking that we might discuss it today
11 and --

12 MR. MORO: I just caution
13 you to not get into any of our actual
14 discussions yesterday to the extent
15 you're going to.

16 THE WITNESS: Okay.

17 Q But you reviewed it?

18 A Yeah.

19 Q You reviewed it to prepare
20 for today's deposition; right?

21 A I saw it as something that
22 we might discuss today, yes.

23 Q That was the purpose of your
24 reviewing it yesterday; correct?

25 A Correct.

1 P. Ferro

2 Q Between the time you wrote
3 it and yesterday, had you seen that
4 e-mail or reviewed that e-mail again?

5 A When we were collecting
6 e-mails to present, it was the e-mail
7 that I found in my -- that I had sent
8 that has to do with our subject matter.

9 Q And, again, do you recall
10 anything that you wrote to Brad about how
11 to best serve that audience of 35 to 44?

12 MR. MORO: Objection to
13 form.

14 A I don't specifically recall
15 what was in the e-mail.

16 Q Other than what you've
17 testified to already, do you recall
18 anything else that was in the e-mail?

19 A It was, yes, to bring for
20 the afternoon show talent by the name of
21 at that time that went by Nuyork. Her
22 name is Nicole.

23 Q Anything else that you
24 recall writing to Brad in that e-mail?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A Let's see, my desire to
4 bring Nicole to the afternoon show, the
5 findings of the study. I attached a
6 conversation, an e-mail exchange with
7 Kevin that included I want to say a dozen
8 bullet points. That's it.

9 Q Did you have a discussion
10 with Brad or Kevin or anyone else after
11 you sent that e-mail to Brad about the
12 subjects that were in that e-mail?

13 MR. MORO: Objection to
14 form.

15 A I'm sure that we did. I
16 don't remember how quickly after I wrote
17 it we conversed.

18 Q So you recall having a
19 conversation about that e-mail; correct?

20 MR. MORO: Objection to
21 form.

22 A Yes.

23 Q How many conversations did
24 you have about the subjects in that
25 e-mail after you wrote the e-mail?

1 P. Ferro

2 A Brad and I connect several
3 times a week and sometimes several times
4 a day, so my priority with WBLS being so
5 important to the company I could assume,
6 but I'm assuming, that we had at least
7 two or three.

8 Q Do you recall actually
9 having two or three conversations about
10 the subjects that were in that e-mail?

11 A Not specifically, but as I
12 mentioned Brad and I talk all the time.

13 Q So you're saying you must
14 have had conversations, but you cannot
15 remember any specific conversations;
16 correct?

17 MR. MORO: Objection to
18 form.

19 A That is correct.

20 Q So if I asked you what you
21 said during those conversations, would
22 you be speculating?

23 A I have a very clear idea of
24 what I wanted to do at the time for the
25 brand.

1 P. Ferro

2 Q And is that something you
3 would have communicated to Brad?

4 A That is something that I
5 would have communicated to Brad, yes.

6 Q And what did you want to do
7 for the brand?

8 A I wanted to bring in a
9 seasoned person for the afternoon that
10 had programming background and had a lot
11 of digital experience and when I say
12 digital, it's Instagram and Twitter and
13 social media, but was also willing to do
14 things, you know, for our digital
15 department, which means digital content.

16 Q Anything else that you
17 wanted to do for the brand?

18 A Yes. I wanted to decide
19 whether -- what we did in the midday
20 show, whether we kept Shaila or we went
21 in a different direction.

22 Q Anything else you wanted to
23 do for the brand?

24 A Follow the company's
25 guideline of really championing digital

1 P. Ferro

2 Instagram, Twitter, film content, have
3 someone here live when a big artist came
4 to do interviews, which we were lacking
5 and I thought I found the perfect person
6 to do it and so far we are happy with
7 her.

8 Q And why did you focus on
9 whether you wanted to keep Shaila?

10 MR. MORO: Objection to
11 form.

12 A It was we needed somebody to
13 fill the midday slot and I figured let's
14 let the audience, you know, let's get
15 feedback from the audience to see which
16 one of these two hosts were more popular
17 and --

18 Q Who were the two hosts --
19 sorry, please finish.

20 A No, no. It's all right.
21 The two hosts, one was Deja Vu and the
22 other person was Shaila and the study
23 found that Deja was significantly more
24 known than Shaila, so my recommendation
25 was to put Shaila -- to put Deja in that

1 P. Ferro

2 midday slot.

3 Q At the time you had these
4 conversations with Brad about what you
5 wanted to do, was Shaila already gone?

6 A No. She was not.

7 Q But you had already decided
8 to let her go; correct?

9 MR. MORO: Objection to
10 form.

11 A We hadn't decided. I hadn't
12 decided. We hadn't decided to let her
13 go. Her contract was coming to an end.
14 We were in -- we were in a period where
15 we had extended for several months and
16 that's the time that we were having these
17 conversations.

18 Q Earlier you testified that
19 you needed someone to fill the midday
20 slot; correct?

21 A Yes.

22 Q And I'm asking you what came
23 first, did you first decide to let Shaila
24 go and then speak to Brad about bringing
25 on Jusnik or did you first decide to hire

1 P. Ferro

2 Jusnik and then decide to let Shaila go?

3 MR. MORO: Objection to
4 form.

5 A I didn't decide to let
6 Shaila go. I knew that I wanted somebody
7 in the brand that could execute what the
8 company wanted, which was Instagram,
9 Twitter and video content for our app,
10 but I -- I hadn't made a decision or
11 hadn't recommended a decision one way or
12 another.

13 What I did show Brad were
14 the findings of the study.

15 Q At the time that you showed
16 Brad the findings of the study, had you
17 already decided that you wanted to hire
18 Jusnik?

19 MR. MORO: Objection to
20 form.

21 A I decided that she was the
22 top candidate, I wanted to bring her on,
23 but we had not discussed anything with
24 Nik other than internally that this
25 person might be really good for us.

1 P. Ferro

2 Q And at the time that you
3 decided that you wanted to hire Jusnik or
4 that she was a top candidate, had you
5 already decided that you did not -- you
6 no longer wanted Shaila to occupy the
7 midday spot?

8 MR. MORO: Objection to
9 form.

10 A At that time, was that the
11 question? I'm sorry.

12 Q So it would be easier if you
13 just listened to my questions. If I ask
14 you for a date or a person, that's what
15 I'm asking for, a name or a date or
16 something else, okay?

17 A Okay.

18 Q So I'm asking you about a
19 sequence of events and I think you said
20 that at the time you spoke to Brad about
21 the study?

22 A Uh-huh.

23 Q You had identified Jusnik as
24 a top candidate; correct?

25 A Yes.

1 P. Ferro

2 MR. MORO: Objection to
3 form.

4 Q And she is someone you
5 wanted to hire; correct?

6 MR. MORO: Objection to
7 form.

8 A Yes.

9 Q At the time of those
10 conversations with Brad, had you already
11 decided that you would terminate Shaila's
12 contract?

13 MR. MORO: Objection to
14 form.

15 A No.

16 Q You said that Jusnik was --
17 you believed she was a top candidate.
18 Who were the other candidates at the
19 time?

20 A I can't recall specifically,
21 but I knew that Jusnik filled a lot of
22 the requirements that I know are
23 necessary for success.

24 Q Mr. Ferro, I asked you who
25 were the other candidates. Can you tell

1 P. Ferro

2 me who they were?

3 MR. MORO: Objection to
4 form.

5 A I can't recall.

6 Q You can't recall a single
7 other candidate that you considered other
8 than Jusnik?

9 MR. MORO: Objection to
10 form.

11 A Not one.

12 Q Not one? How many of them
13 were there?

14 MR. MORO: Objection to
15 form.

16 A Jusnik was always my -- my
17 focus.

18 Q So there were no other
19 candidates other than Jusnik; correct?

20 MR. MORO: Objection to
21 form.

22 MR. LICUL: What's the
23 objection?

24 MR. MORO: Misstates the
25 testimony.

1 P. Ferro

2 MR. LICUL: Misstates his
3 testimony?

4 MR. MORO: Yes.

5 MR. LICUL: Okay.

6 Can you read back the
7 question, Lisa?

8 (The requested portion was
9 read back by the Court Reporter.)

10 Q You can answer the question.

11 A Correct.

12 Q So earlier when you said she
13 was the top candidate, she was, in fact,
14 the only candidate; correct?

15 MR. MORO: Objection to
16 form.

17 A Making her in my opinion the
18 top candidate.

19 Q She was the top and bottom
20 candidate; correct?

21 MR. MORO: Objection to
22 form.

23 A Yes.

24 Q Because she was the only
25 candidate; correct?

1 P. Ferro

2 A Correct.

3 Q How old is Jusnik?

4 A I have no idea.

5 Q Is she 90 years old?

6 MR. MORO: Objection to
7 form.

8 A No.

9 Q How old do you believe she
10 is?

11 MR. MORO: Objection to
12 form.

13 A 40.

14 Q How old is Shaila?

15 A I have no idea.

16 Q How old do you believe she
17 is?

18 A Mid 50's.

19 Q Mr. Ferro, have you ever
20 been accused of discriminating against an
21 employee at any of your jobs?

22 A Never.

23 Q Have you ever sued anyone?

24 A Yes.

25 Q Who did you sue?

1 P. Ferro

2 A A former employer.

3 Q Who is that?

4 A Spanish Broadcasting System.

5 Q Why did you sue the Spanish
6 Broadcasting System?

7 A Breach of contract.

8 Q When did you sue the Spanish
9 Broadcasting System?

10 A Springtime of '09.

11 Q And what was the alleged
12 breach?

13 A They wanted to reduce my
14 salary significantly in the middle of my
15 contract and when I didn't agree to what
16 they wanted, they terminated me.

17 Q Did you file your case in
18 court?

19 A Yes.

20 Q Where?

21 A Miami, Florida.

22 Q Do you recall if that was
23 federal or state court?

24 A I do not.

25 Q And do you recall whether

1 P. Ferro

2 you sued just the Spanish Broadcasting
3 System or you also sued individuals?

4 A Just for the remainder of my
5 contract --

6 Q Right.

7 A -- just the company.

8 Q I'm asking you who you sued
9 other than the Spanish Broadcast System?

10 A Yeah. I wasn't finished
11 answering.

12 Q Okay. I'm sorry.

13 A I said the company, so
14 Spanish Broadcasting System.

15 Q Did you sue anyone else in
16 that lawsuit, other than the Spanish
17 Broadcasting System?

18 A No.

19 Q And did that case resolve?

20 A Yes.

21 Q Was there a trial?

22 A No.

23 Q Were you deposed?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A No. I just spoke with my
3 attorney.

4 Q Did that case settle?

5 A Yes.

6 Q And it settled before you
7 were deposed; correct?

8 MR. MORO: Objection to
9 form.

10 A I don't remember being
11 deposed. I just remember speaking to my
12 attorney.

13 Q And as you recall, you filed
14 a case and then it was resolved at some
15 point; correct?

16 A Yes.

17 Q When communicating about
18 work, what forms of communication do you
19 use? Do you use e-mail?

20 A I do.

21 Q Do you use a company e-mail?

22 A Yes.

23 Q Do you use a personal
24 e-mail?

25 A No.

1 P. Ferro

2 Q Never?

3 A Never.

4 Q What about text?

5 A No, not for anything other
6 than very simple conversation, you know,
7 I'm going to work from home today and
8 things like that.

9 Q What about other forms of
10 electronic communication like WhatsApp or
11 other apps?

12 A No.

13 Q Have you spoken to anyone
14 about your deposition here today, other
15 than counsel?

16 A No.

17 Q Have you spoken to anyone
18 other than counsel about Ms. Scott's
19 lawsuit?

20 A No.

21 Q You haven't mentioned it to
22 any colleagues?

23 MR. MORO: Objection to
24 form.

25 A No.

1 P. Ferro

2 Q Your colleagues.

3 A No.

4 Q Have they mentioned it to
5 you?

6 A Not really, no.

7 Q When you say not really, do
8 you recall somebody mentioning it to you
9 or not?

10 A No.

11 Q When did you first learn
12 that Ms. Scott filed a lawsuit?

13 A Late last year is the best I
14 can recall, October.

15 Q And how did you learn?

16 A Because Brad mentioned it to
17 me.

18 Q What did Brad say?

19 A That we were -- that Shaila
20 had filed a lawsuit against the company.

21 Q Did he say anything else?

22 MR. MORO: Before you
23 answer, Brad is also general counsel
24 to MediaCo, so I just want to caution
25 if there's any discussions between

1 P. Ferro

2 you that was for the purpose of
3 giving legal advice that those are
4 privileged and you shouldn't answer
5 that.

6 A No. He just mentioned it to
7 me and he made me aware of it.

8 Q How did you respond to Brad?

9 MR. MORO: I'm going to
10 direct you not to answer that, Pio.
11 Brad is general counsel. If he's
12 talking about the lawsuit, I think
13 all of this is going to be
14 privileged, Valdi.

15 MR. LICUL: Are you
16 directing him not to answer?

17 MR. MORO: Yes. To the
18 extent that you're asking about
19 conversations between the general
20 counsel and Pio about the lawsuit in
21 this case, yeah, I am directing him
22 not to answer on the basis of
23 attorney/client privilege.

24 MR. LICUL: Well, as I
25 understand he's the COO.

1 P. Ferro

2 MR. MORO: He's the COO and
3 general counsel. He was introduced
4 at Shaila's deposition also. I mean
5 you know that.

6 MR. LICUL: Right.

7 Q Mr. Ferro, do you know the
8 purpose of the conversation between you
9 and Brad at the time that he told you
10 that Shaila had filed a lawsuit?

11 MR. MORO: Can you read back
12 the question one more time, please?

13 A Can you rephrase it?

14 MR. MORO: Just let the
15 reporter, when I say that, the
16 reporter will read the question back.

17 (The requested portion was
18 read back by the Court Reporter.)

19 A Yes, that she was filing a
20 lawsuit.

21 Q I'm asking you, okay. Did
22 you say the purpose of the lawsuit was
23 for him to tell you that she had filed a
24 lawsuit?

25 A The purpose of the

1 P. Ferro

2 conversation was for him to make me aware
3 that she was filing a lawsuit and to make
4 sure that I kept all my e-mails and --

5 Q Okay.

6 A -- that's it.

7 Q I'm not asking you what was
8 said between you and Brad, but what was
9 your reaction? How did you feel when you
10 learned that Shaila filed a lawsuit?

11 MR. MORO: Can you read that
12 back one more time?

13 (The requested portion was
14 read back by the Court Reporter.)

15 MR. MORO: You can answer.

16 A I felt she was -- I felt it
17 was wrong for her to do it.

18 Q Anything else?

19 A That was the feeling that I
20 remember.

21 Q Do you recall any other
22 feelings?

23 A No.

24 Q And why did you believe she
25 was wrong for filing the lawsuit?

1 P. Ferro

2 A Because I believed the
3 company followed the correct protocols at
4 the time that we let her know that he
5 wouldn't be renewing her contract.

6 Q Any other reason that you
7 believed she was wrong for filing the
8 lawsuit?

9 A That was it. I didn't feel
10 like we had done anything wrong to her to
11 merit a lawsuit.

12 Q What were the protocols that
13 the company followed?

14 A We followed the protocols on
15 the Collective Bargaining Agreement which
16 WBLS has with AFTRA and I believed there
17 was a settlement, I don't know if
18 settlement is the correct word, but there
19 was a payment to her post the time that I
20 let her know that we weren't renewing her
21 agreement.

22 Q Any other protocols that you
23 followed?

24 A I believe that's it.

25 Q Other than speaking to Brad

1 P. Ferro

2 and counsel, do you recall speaking to
3 anyone else at any time about Ms. Scott's
4 lawsuit?

5 A No. I am aware that other
6 people are getting -- that are involved,
7 but we have not spoken about this other
8 than coordinating dates and making sure
9 on their availability.

10 Q When you say people who are
11 involved, what do you mean?

12 A I am aware of Cynthia Smith,
13 I'm aware that you'd like to speak to
14 Nicole. I'm aware that you'd like to
15 speak to Ibrahim Darden and to Ashton
16 Taylor.

17 Q So you're talking about
18 other people that are being deposed in
19 this case; correct?

20 A Right. I helped coordinate
21 their schedule to make sure that they're
22 available to you.

23 Q Who's Charlie Morgan?

24 A Charlie Morgan was the
25 market president here at MediaCo, pardon

1 P. Ferro

2 me, when we were Emmis from January of
3 2016 until March of 2020.

4 Q Have you spoken to Charlie
5 Morgan about anything since March of
6 2020?

7 A We keep in touch. We speak
8 a couple of times a year, birthdays,
9 Father's day, things like that.

10 Q Where is Mr. Morgan
11 currently working?

12 A He is the head of Apple
13 Music and he and I haven't spoken in
14 several months. Last time we spoke he
15 was based in Nashville.

16 Q Do you have his contact
17 information?

18 A I have a phone number that I
19 believe is still current, yes.

20 Q Anything else?

21 A No.

22 Q What about work address?

23 A I don't. I do not.

24 Q What about a home address?

25 A No.

1 P. Ferro

2 Q If you wanted to find
3 Mr. Morgan's contact, either his work
4 address or his home address, where would
5 you look?

6 A I would call him and ask
7 him.

8 Q Anyplace else?

9 A No.

10 Q Do you know if MediaCo has
11 his contact information?

12 A I can only assume since he
13 was part of the transition between Emmis
14 and MediaCo that they have an address or
15 something for him.

16 Q All right. Let's switch
17 gears a little bit. Mr. Ferro, what's
18 your current position at MediaCo?

19 A I'm the senior vice
20 president of programming.

21 Q And you report to Brad you
22 said; is that right?

23 A Correct. Yes.

24 Q And what are your
25 responsibilities as senior vice president

1 P. Ferro

2 of programming?

3 A I oversee the content on air
4 and I am responsible for the ratings.
5 I'm responsible to make sure that we
6 don't have profanity on the air. I am
7 responsible to make sure that we put
8 forward the best product to capture the
9 widest audience we can.

10 Q Anything else?

11 A Sure. I mean there's
12 involvement with station events, helping
13 coordinate those. I work with our
14 talent, try to make them better sharing
15 my experience. We spent thankfully a lot
16 of money on research. I'm the person
17 that makes sure that research gets
18 implemented. I review the research that
19 we get weekly amongst other data. As I
20 mentioned, I work with the hosts. I work
21 with our other program director, the
22 other program director being Cynthia
23 Smith. I interact and help our sales
24 department to generate revenue. I work
25 with our promotions department to make

1 P. Ferro

2 sure that everything is running smoothly
3 and we have the correct contests and
4 promotions on the air and also work with
5 our production department, which is the
6 department that puts together commercials
7 and announcements that run on the radio.

8 Q Anything else?

9 A That's -- that's it.

10 Q Now, your responsibilities
11 span both WBLS and Hot 97; correct?

12 A Correct.

13 Q How many direct reports do
14 you have?

15 A I have two direct reports.

16 Q And who are they?

17 A Cynthia Smith --

18 Q Okay.

19 A -- and Jessica Stokes.

20 Q And what is Ms. Smith's
21 position?

22 A Ms. Smith is the program
23 director currently for WBLS.

24 Q And what about Ms. Stokes?

25 A She is my music director for

1 P. Ferro

2 WQHT.

3 Q And does Ms. Smith have any
4 direct reports?

5 A No. I mean we -- she
6 manages the air staff just like I do, so
7 they report to us, but not in a manager
8 level.

9 Q When you say she manages the
10 air staff, what do you mean?

11 A She does -- she creates
12 schedules for the weekend staff. She
13 sits and reviews air shows, air checks is
14 what we call them with our on-air talent.
15 She interfaces with the company that
16 syndicates our morning show, with a
17 company that syndicates our evening show.
18 She works on everything from making sure
19 that the research that we discussed is
20 getting implemented and she's in charge
21 of making sure that happens.

22 Q Does Ms. Stokes supervise
23 anyone?

24 A The weekend staff on Hot 97,
25 on WQHT. She creates scheduling for the

1 P. Ferro

2 weekend staff and she approves time
3 sheets for them.

4 Q How long have you had this
5 position at MediaCo?

6 A My current position, since
7 November of 2019.

8 Q And what position did you
9 hold before that?

10 A Program director of WQHT.

11 Q And QHT is Hot 97; correct?

12 A QHT is Hot 97.

13 Q So throughout this
14 deposition if we use the call letters QHT
15 or Hot 97 we are talking about the same
16 station?

17 A Correct.

18 Q And were your
19 responsibilities different when you were
20 program director for Hot 97?

21 A I'm still the acting program
22 director for Hot 97. Those
23 responsibilities are identical. When I
24 started overseeing WBLS, it was -- there
25 was a different program director then and

1 P. Ferro

2 my function is different for WBLS because
3 I basically run everything on Hot 97 from
4 the programming side.

5 And with WBLS I work with
6 somebody that is doing what I'm doing,
7 but I'm giving them guidance, counsel and
8 direction.

9 Q Did you supervise anyone
10 when you were program director?

11 A The air staff.

12 Q Anyone else?

13 A Jessica was -- has been my
14 music director since the day I walked in.

15 Q Anyone else?

16 A Was your question before
17 what I currently do now?

18 Q Right. You said you were
19 program director through November of 2019
20 and my question to you is other than the
21 folks that you mentioned, did you
22 supervise anyone else as program
23 director?

24 A The on-air staff, the prime
25 talent on the on-air staff and Jessica

1 P. Ferro

2 were the primary people that I
3 supervised.

4 Q Were there any secondary
5 people you supervised?

6 A The promotions team was
7 secondary. The way that it works is
8 promotions takes their queue from
9 programming in terms of what we want to
10 do on air. The production staff on a
11 secondary basis, you know, if they
12 produce a commercial that has certain
13 language or certain music, I might chime
14 in and say please change it, reword it,
15 functions like that.

16 Q So after November of 2019,
17 you continued with those duties you just
18 described in those supervisory
19 responsibilities, but then added
20 additional responsibilities that you
21 testified to earlier; correct?

22 A Correct.

23 Q Prior to being program
24 director, what job did you have?

25 A I was in another market. I

1 P. Ferro

2 was in Miami, Florida and I was also a
3 program director.

4 Q For what station?

5 A For WPOW FM. The station's
6 name is Power 96.

7 Q And how long did you have
8 that job?

9 A For two years.

10 Q And why did you leave?

11 A Because the opportunity to
12 come here opened.

13 Q And at the time you came
14 here, Hot 97 and BLS were owned by Emmis;
15 correct?

16 A Yes. Correct.

17 Q And at some point that
18 ownership transferred to MediaCo;
19 correct?

20 A Correct.

21 Q Power 96, was that either an
22 Emmis or a MediaCo station?

23 A No.

24 Q Who was it owned by?

25 A At the time it was owned by

1 P. Ferro

2 Beasley Media Group.

3 Q At the time you left?

4 A Correct. Yes.

5 Q And prior to working at
6 Power 96, where did you work?

7 A I worked for CBS Radio.

8 Q For what period of time?
9 I'm asking for years.

10 A Okay. From 2010 to 2013.

11 Q What did you do for CBS?

12 A I was the vice president of
13 programming for all their Spanish
14 properties.

15 Q Why did you leave CBS?

16 A Because the opportunity at
17 Power 96 became available and my contract
18 was coming to an end and I fulfilled my
19 duties with CBS Radio and I wanted to go
20 to Power 96.

21 Q Did you leave CBS Radio
22 voluntarily?

23 A Yes.

24 Q Were you offered an
25 extension of your contract?

1 P. Ferro

2 A Yes.

3 Q And did you leave Power 96
4 voluntarily?

5 A Yes.

6 Q Prior to CBS, where did you
7 work?

8 A I worked at Spanish
9 Broadcasting System, SBS, from September
10 of 2009 -- pardon me -- September of 2000
11 until springtime in 2009 March.

12 Q And you said that Spanish
13 Broadcasting terminated your employment;
14 correct?

15 A Correct. Yes.

16 Q And I know you testified
17 that they wanted you to take a pay cut
18 and then fired you; correct?

19 A Correct.

20 Q What was the reason Spanish
21 Broadcast gave for firing you?

22 A That they couldn't come to
23 future terms with me.

24 Q Anything else?

25 A No.

1 P. Ferro

2 Q What was the reason they
3 gave for wanting you to take a pay cut?

4 A At the time the country was
5 going through a very tough economic time.
6 Many people in the broadcasting industry
7 not only lost jobs, but took certain pay
8 cuts and at the time I believed the
9 company needed to do what they needed to
10 do in order to survive.

11 Q So they asked you to take a
12 pay cut because of economic
13 circumstances?

14 A Correct. Many people did.

15 Q Sorry, many people took pay
16 cuts; correct?

17 A Yes.

18 Q But you refused to take a
19 pay cut; correct?

20 A I refused to take a 50
21 percent pay cut, which is what they were
22 asking for.

23 Q How much of a pay cut were
24 you willing to take?

25 A 25 percent.

1 P. Ferro

2 Q Did you ever institute pay
3 cuts at MediaCo?

4 A Me personally, no.

5 Q Did MediaCo ever institute
6 pay cuts while you were working for
7 MediaCo?

8 MR. MORO: Objection to
9 form. Go ahead.

10 A When the pandemic happened
11 in March of 2020, several months into the
12 pandemic when we didn't know, nobody knew
13 when the end would -- of the pandemic
14 would be here, MediaCo followed suit with
15 what every single broadcaster did, which
16 was furlough some people and reduce
17 salaries for pretty much everybody.

18 Q Just focusing on on-air
19 personalities, did the on-air
20 personalities at either BLS or Hot 97
21 take pay cuts?

22 A Yes.

23 Q What was the range of the
24 pay cuts?

25 A 15 percent.

1 P. Ferro

2 Q Across the board?

3 MR. MORO: Note my objection
4 to form.

5 A It was dependent on the
6 amount of money that they made, but
7 everybody on air made over a certain
8 amount of money and from memory I want to
9 say it was 15 percent.

10 Q Do you recall what the
11 threshold was for taking a 15 percent pay
12 cut? In other words, how much money did
13 an on-air personality have to earn to be
14 subject to the 15 percent pay cut?

15 A \$100,000 or more.

16 Q Do you know if anybody was
17 asked to take a greater pay cut?

18 A No.

19 Q Do you know if any of the
20 on-air personalities negotiated a lower
21 pay cut?

22 A Lower, no.

23 Q When were the pay cuts --
24 when was pay restored, if at all?

25 A What MediaCo did to offset

1 P. Ferro

2 the cut was they offered company stock to
3 the employees to offset the cut. Once we
4 were coming back to work post the
5 pandemic, whoever had a contract that was
6 up we would just negotiate from there on.

7 Q So is it your testimony that
8 from some point after the pandemic
9 MediaCo instituted a 15 percent pay cut
10 for on-air personalities because they all
11 made over \$100,000; is that correct?

12 MR. MORO: Note my objection
13 to form.

14 A Correct.

15 Q Or more, they made at least
16 100,000; correct?

17 A The full-time on-air
18 personalities. There are part-timers
19 that do not make \$100,000. The people
20 that made less money, I forget what the
21 threshold was, they did not get asked to
22 take a reduction.

23 Q I'm just focusing on the
24 on-air personalities. The on-air
25 personalities took the 15 percent pay

1 P. Ferro

2 cut, but were given company stock;

3 correct?

4 A Correct.

5 Q Were they each given the

6 same amount of company stock?

7 MR. MORO: Objection to

8 form.

9 A They were given the -- if
10 you took a \$10,000 or \$15,000 cut, they
11 gave you \$15,000 worth of equity in the
12 company.

13 Q And those pay cuts remained
14 until the next round of negotiations for
15 each on-air personality; correct?

16 A Correct.

17 Q And at that point you would
18 just negotiate a new contract; correct?

19 A Correct.

20 Q Sorry, we got a little off
21 track. Prior to working at CBS Radio,
22 where did you work?

23 A Prior to CBS Radio, I worked
24 for Spanish Broadcasting.

25 Q Oh, sorry, prior to Spanish

1 P. Ferro

2 Broadcasting. Sorry.

3 A Prior to that I worked for a
4 company that is now known as Univision
5 Radio, but back then it was known as
6 Hispanic Broadcasting Corporation and
7 there was a transition. When I walked
8 into the company, it was Heftel
9 Broadcasting Corporation.

10 Q And what did you do for
11 Heftel/Univision?

12 A I was program director and
13 on air for the biggest property in Los
14 Angeles from November of '94 until late
15 1999.

16 Q Late 1990?

17 A 1999.

18 Q And why did you leave?

19 A We got pregnant with our son
20 and we wanted to go back home and the
21 company offered me a job in Miami and it
22 was the first time that I was offered a
23 job to do several stations at once, which
24 meant more money and better opportunity.

25 Q Prior to working at what

1 P. Ferro

2 became Univision, where did you work?

3 A I started my career at WXDJ
4 FM, I was a month from turning 15, so
5 this would have been late '86.

6 Q Did you attend college?

7 A I did not.

8 Q Do you have any degrees or
9 certificates that are not college
10 degrees?

11 A No.

12 Q At any of the places that
13 you worked, have you been trained on the
14 employment laws?

15 MR. MORO: Objection to
16 form.

17 A Yes.

18 Q Does that include MediaCo?

19 A I don't believe that we've
20 had training here at MediaCo other than
21 what's required by New York State
22 regarding equality and we do standard
23 anti-Payola and Plugola trainings once a
24 year.

25 Q What about at Emmis, have

1 P. Ferro

2 you had any training on employment laws?

3 A It was the same, the
4 standard anti-Payola Plugola. Emmis
5 had -- Emmis took a lot of pride in the
6 morale, so there was always, you know,
7 signs up on the wall that was like the
8 Emmis commandments is what they called
9 it.

10 Q Do you recall what the Emmis
11 commandments said?

12 A It was about kindness and
13 being good to one another and working
14 hard and not being afraid to take risks.

15 Q Are you aware that
16 discrimination based on age is unlawful?

17 A Of course.

18 Q How long have you been aware
19 of that?

20 A Since the day I became a
21 program director at 19.

22 Q And are you aware that men
23 and women are required to be paid equally
24 for doing substantially equal work?

25 MR. MORO: Note my objection

1 P. Ferro

2 to form, but you can go ahead.

3 A Yes. Of course.

4 Q And how long have you known
5 that?

6 A If it's equal amount of
7 work, then I've known it for a long time.
8 Gender doesn't play a part.

9 Q My question is how long have
10 you known that?

11 A Thirty plus years.

12 Q Let's talk a little bit
13 about the two stations that you currently
14 have responsibilities for, WBLS and Hot
15 97. What type of station is WBLS?

16 A WBLS is a greatest hits
17 style format that is targeted to people
18 in the demographic of 25 to 54, which is
19 the standard sales demo that Nielsen
20 Ratings uses. It focuses on the greatest
21 hits of the past couple of decades. It
22 is very utilitarian, which is music is
23 the star of what we play and we have a
24 pretty significant morning show with
25 Steve Harvey which is syndicated.

1 P. Ferro

2 What else would you like to
3 know?

4 Q Well --

5 A We could be here three days.

6 Q Fair enough.

7 A Do you want to do that?

8 Q Does Nielsen provide ratings
9 information for WBLS?

10 A Yes.

11 Q And does Arbitron do that
12 also or are they the same thing?

13 A Arbitron was the former
14 company. Now Nielsen, which was only TV,
15 owns everything.

16 Q So Nielsen Ratings and
17 Arbitron Ratings are basically the same
18 thing; correct?

19 A Correct.

20 Q And is there a particular
21 category that Nielsen puts WBLS in?

22 A Yes.

23 Q And what is that category?

24 A Actually, Nielsen does not,
25 but radio stations say they are, you

1 P. Ferro

2 know, CHR. There's certain types of
3 formats that they identify as. Nielsen
4 just reports what you say you are, but
5 their function is ratings. It's not --
6 you know, you could classify yourself as
7 anything you want. It doesn't change
8 what they do.

9 Does that make sense?

10 Q So if a station identifies
11 itself as a particular type of station,
12 Nielsen would just repeat that; correct?

13 A No, no. They are a ratings
14 company.

15 Q Right. But Nielsen Ratings
16 have particular categories for types of
17 radio stations; correct?

18 A No.

19 MR. MORO: Objection to
20 form.

21 A No.

22 Q Have you ever heard of the
23 term urban contemporary?

24 A Sure.

25 Q Is that one category of

1 P. Ferro

2 station?

3 A That is one category of
4 station, but it is used to report music
5 to charts. It is more of a record label
6 and industry way of identifying the
7 stations.

8 I can elaborate if you want.

9 Q No.

10 So what is the manner in
11 which WBLS identifies itself?

12 A Urban AC, urban adult
13 contemporary.

14 Q And who are WBLS's
15 competitors?

16 A We just recently got a
17 secondary competitor, it's not a
18 head-to-head competitor, it's more of a
19 flank that we consider a competitor and
20 I'm sorry, are you asking when did we get
21 it or who this competitor is?

22 Q I'm asking --

23 A I can answer both. I can
24 answer both.

25 Q -- who are WBLS's

1 P. Ferro

2 competitors?

3 A Sorry. I feel that we
4 compete with every single station on the
5 dial. Primary competitors are WXBK I
6 believe is their call letters. It's
7 94.7, The Block.

8 Q Any other competitors for
9 WBLS?

10 A Yes. Power 105 is a
11 competitor and when I saw competitor it's
12 audience sharing, so I must add that Hot
13 97 shares audience with WBLS simply
14 because of WBLS's massive size.

15 Q Any other competitors?

16 A Aside from those, everybody
17 else on the dial.

18 Q And when you say everyone
19 else on the dial, you're talking about
20 everyone else on the dial in the New York
21 City geographic area; correct?

22 A Yes. Correct.

23 Q And both WBLS and Hot 97
24 share the same geographic area; correct?

25 A In terms of signal coverage?

1 P. Ferro

2 Q Yes.

3 A Very similar.

4 Q Is there any difference?

5 A Yes.

6 Q What's the difference?

7 A I would have to look at
8 maps, but it's the fringe, the outside
9 parts of where the signal covers. One
10 covers Long Island better than the other
11 one and I -- but it's not significant
12 enough for me to know that. It's
13 refringe.

14 Q What type of a station is
15 Hot 97?

16 A Hot 97 is a rhythmic
17 station. It plays a lot of hip hop and
18 current hits. Where WBLS would play
19 about 400 titles, Hot 97 focuses on about
20 120 and the difference is the music is
21 rotated, the top songs, the most current
22 and hit songs are rotated more frequently
23 on Hot 97. It is a station because of
24 its tenure and history of being New
25 York's first major hip hop station,

1 P. Ferro

2 there's a culture leading aspect to it.

3 The morning show is local by
4 design. It's very skit based in that it
5 has pieces of content that people look
6 forward to listening to every day at
7 specific times, right.

8 Is that -- I can keep on. I
9 don't know if that satisfies your
10 question.

11 Q What's Hot 97's category?

12 MR. MORO: Objection to
13 form.

14 A Rhythmic.

15 Q That's a category the same
16 way that adult urban contemporary is a
17 category?

18 A Yes.

19 Q And are there any other
20 categories --

21 A Yes.

22 Q -- that Hot 97 fits in?

23 A No.

24 MR. MORO: Just make sure
25 you wait for him to finish the

1 P. Ferro

2 question.

3 THE WITNESS: Sure. I
4 apologize.

5 MR. MORO: It's all right.

6 Q Has it ever been described
7 as an urban station?

8 A I mean not necessarily. The
9 difference -- can I tell you what the
10 difference is?

11 Q Well, I asked you has it
12 ever been described as an urban station.
13 You said not necessarily. Does that mean
14 it has been described as an urban
15 station?

16 A No.

17 Q Just so you're saying that
18 when record labels place categories on
19 stations, Hot 97 will be described as a
20 rhythmic station?

21 A Correct.

22 Q Okay.

23 A Hot 97 reports to the
24 rhythmic panel, not to the urban panel.

25 Q And what's Hot 97's

1 P. Ferro

2 demographic?

3 A Hot --

4 MR. MORO: Objection to
5 form. Go ahead.

6 THE WITNESS: Sorry.

7 A Hot 97's demographic is --
8 it's changed slightly, but it's 25-34 has
9 always been my target and that lands us
10 for Nielsen in the 18 to 34 and 18 to 49
11 demographics.

12 Q So Hot 97 and WBLS share the
13 25 to 34 demographic; correct?

14 MR. MORO: Note my objection
15 to form.

16 A As all the stations do,
17 yeah.

18 Q In fact, they share the 25
19 to 49 demographic; correct?

20 MR. MORO: Objection to
21 form.

22 A Yes.

23 Q I want to ask you about some
24 terms. You mentioned them and I haven't
25 defined them and I'd like your

1 P. Ferro

2 explanation. What is a rating, a Nielsen
3 Rating?

4 A A Nielsen Rating is --
5 there's two ways that you look at
6 ratings. You see rating point, which is
7 the percentage of the total audience in
8 the market that your radio station
9 attracts and that number is mostly used
10 by our sales department for transactional
11 purposes, so usually those ratings are
12 0.2, 0.3, 0.4.

13 For programming, we -- we
14 use share and what that means is
15 excluding the people that do not listen
16 to radio, we are just looking at the pie
17 of the radio listeners and then a share
18 of, you know, of that pie is what we look
19 at and, you know, my focus is on the
20 people that use radio, not the people
21 that don't. So share, when we talk about
22 ratings and we are talking about share,
23 it's more of a programming. It's what
24 programming uses and when we talk about a
25 rating point, it's what sales mostly

1 P. Ferro

2 uses.

3 Q How does sales use rating
4 points in transactions?

5 A Sales uses rating points to
6 decide what a commercial will cost to air
7 on a radio station. The higher the
8 rating point, the more you can charge to
9 have your -- the commercial play.

10 Q And that would translate
11 into higher revenue; correct?

12 A Correct.

13 MR. MORO: Objection to
14 form.

15 Q What's cume?

16 A Again, there's two ways of
17 looking at cume. There's the, you know,
18 the pretty picture which is weekly cume
19 and that is the number of the people that
20 are listening to radio in a week long
21 period, which includes incidental
22 listening so that number is usually
23 pretty high.

24 What I look at to make sure
25 that our products are on target is daily

1 P. Ferro

2 cume, which are the people that it's the
3 repeat customers that come back on a
4 daily basis, so that's the number that I
5 pay attention to, but it's lower. It's
6 not as pretty as a big weekly cume
7 number.

8 Q And what is cume used for?

9 MR. MORO: Note my objection
10 to form.

11 A Cume is used to determine
12 the amount of people that are tuning in
13 to a certain radio station on either a
14 daily, when you're looking at daily cume
15 and all exposure through a week when
16 you're looking at the overall weekly cume
17 number. It's not used as a transaction.
18 It's mostly used when an article is
19 written and when people don't want to get
20 into the details of the rating point and
21 the share that I just mentioned. They
22 just want to know how many people listen
23 in a week. It's like well, that's where
24 the cume number comes into play. So it's
25 more for laymen people. Yeah, for

1 P. Ferro

2 laymen.

3 Q What is AQH, average quarter
4 hour share?

5 A So the average quarter hour
6 share is the -- again, it's the share
7 that we were -- that I was mentioning to
8 you earlier and that is the share of the
9 radio listening pie and average quarter
10 hour is -- it's an average of the amount
11 of listeners you have in an average 15
12 minute time period.

13 Q And what is that used for?

14 A That is mostly used as a
15 programming tool when you have to adjust
16 and fix a product or, you know, radio
17 station or, you know, just as a health
18 check if you will. You know, if you're
19 average quarter hour share is going down,
20 there's concern. If it's going up,
21 everybody's happy.

22 Q And when you say going down,
23 you mean going down throughout the course
24 of the day, the programming day?

25 A No. I look at that

1 P. Ferro

2 seasonally year over year. I don't even
3 like looking at that month to month
4 because radio listening is affected
5 sometimes with summer vacation. It's
6 affected sometimes with the holiday. You
7 know, people don't -- the behavior is
8 different, so it would be a mistake in my
9 opinion to look at the December book and
10 that's four weeks in December combined to
11 make one book and then the holiday book
12 is separate, so December is going to have
13 traditionally more listening than holiday
14 because people are on vacation during the
15 holidays and probably not using radio as
16 much.

17 So I like looking at
18 December to December, January to January
19 and so on. Does that make sense?

20 Q Would AQH tell you at what
21 parts of the day you have the greatest
22 ratings or share?

23 A Not necessarily. Rating
24 point would be a better descriptor
25 because if you have a 3 percent share of

1 P. Ferro

2 an extra large pizza, it's very different
3 than if you had a 5 percent share of a
4 small pizza. So audiences are larger
5 during mornings and during the afternoon
6 drive than they are in the midday show or
7 at night when people aren't in their cars
8 and so on.

9 So if you said well, you
10 know, Steve Harvey has a 5 share and then
11 the next show has a 5 share, it's equal,
12 it's not because the pie is different.
13 The morning show pie is bigger. There's
14 more available audience. Midday shrinks
15 because people are at work and, you know.

16 Q That's a share though;
17 correct?

18 A Yes. Correct.

19 Q Right. So you're comparing
20 the number of listeners, your share of
21 the number of listeners; correct?

22 A No.

23 MR. MORO: Object to form.

24 A I was trying to answer your
25 initial question and I believe that was

1 P. Ferro

2 regarding share and how share went
3 through the day. I believe that was your
4 question.

5 Q It was. I just have a
6 follow-up question.

7 A Okay.

8 Q Share tells you how much of
9 the listening audience you are capturing;
10 correct?

11 A Yes. Correct.

12 Q Ratings tells you how much
13 of the total number of folks, whether
14 they're listening or not, captures;
15 correct?

16 A The total number of the
17 people listening to the station versus
18 the entire population of the market.

19 Q Right. And share is just
20 it's a percentage of the folks who are
21 actually listening?

22 A It's a percentage of, yes,
23 correct, of the people listening.

24 Q Of any station; correct?

25 A Correct. Yes.

1 P. Ferro

2 Q Have you ever heard of the
3 term meter?

4 A Meter?

5 Q Yes.

6 A Yes.

7 Q What does that mean?

8 A In a radio context?

9 Q Yes.

10 A You want me to tell you all
11 the meters?

12 Q No. Well, fair enough.

13 A I mean --

14 Q What is a meter in the radio
15 context?

16 A There's several, but I would
17 think that you're asking about the meter
18 that Nielsen provides to people to
19 capture radio ratings and not the meters
20 on a control board that tell you what the
21 level of --

22 Q Right.

23 A So the meter is a device
24 that Nielsen provides people that
25 participate in the surveying and as you

1 P. Ferro

2 mentioned before, it used to be Arbitron,
3 now it's Nielsen. When it was Arbitron,
4 there were no meters. That was a
5 different era.

6 Right now we use meters.
7 Until recently they looked like old
8 beepers that we used to use, that I used
9 to carry around and when somebody had an
10 emergency or needed to, you know, they
11 would call you. It's that size and that
12 device has a microphone in it. It is set
13 off by motion. So your heartbeat sets it
14 off and it is listening. That microphone
15 is listening for an encoded signal in the
16 radio that is like a fingerprint. So BLS
17 has its fingerprint and Hot has its
18 fingerprint, that's the way and all the
19 other stations in the top 50 markets have
20 their own particular fingerprint and that
21 device captures actual listening.

22 And then that data is sent
23 back to Nielsen at some point during the
24 day. There's some proprietary stuff that
25 Nielsen simply doesn't share with us.

1 P. Ferro

2 The meter has changed
3 recently. They are now called wearables
4 and they look like, you know, they look
5 like pendants that you can wear on a
6 necklace. They look like a belt clip.
7 They made it smaller and easier for
8 people to carry. Now they also look like
9 Fitbits that some of us might wear to
10 keep track of our heart rate and things
11 of that nature. I wear one.

12 So that's what the meter is.

13 MR. LICUL: Why don't we
14 take a 10 minute break and be back at
15 11:50? Is that okay for everyone?

16 MR. MORO: Work for you?

17 THE WITNESS: Yeah.

18 Absolutely.

19 MR. LICUL: Thank you.

20 (Time noted: 11:42 a.m.)

21 (A short recess was taken.)

22 (Time noted: 11:52 a.m.)

23 Q Mr. Ferro, earlier you
24 talked about a sales staff. Do you
25 recall that?

1 P. Ferro

2 A Yes.

3 Q Is the sales staff the same
4 for both WBLS and Hot 97?

5 A Through the time that I've
6 been here, there have been times where
7 they have been separate where one focuses
8 on one brand and another group of people
9 focus on another and there's been times
10 when they have been united.

11 Currently I am not sure what
12 the structure is, although I believe that
13 they're -- the current people are able
14 to, you know, sell both properties.

15 Q In other words, current
16 sales staff sells ads both on WBLS and
17 Hot 97?

18 A I believe that.

19 Q How long do you believe that
20 has been the case?

21 A I would be guessing.

22 Q I don't want you to guess,
23 but if you can estimate, you can answer.

24 A Sales is -- that's not the
25 part of sales that I interact with, but

1 P. Ferro

2 an educated answer would be if they're
3 both selling, a year.

4 Q Do you recall any specific
5 time when they were separate sales teams?

6 MR. MORO: Note my objection
7 to form.

8 A When I first got here to the
9 company when Emmis owned it, there was a
10 sales staff for Hot 97 and there was a
11 sales staff for WBLS. When Charlie
12 became the market president, I believe
13 that he united them and then after
14 Charlie exited, that's where I'm not sure
15 how it operates currently in terms of if
16 I'm a salesperson, can I sell both. I
17 would think so.

18 Q When did Charlie unite them?

19 A Several months after he got
20 here.

21 Q When did he arrive?

22 A He arrived in January of
23 2016.

24 Q And when did he exit?

25 A March of 2020.

1 P. Ferro

2 Q Thank you.

3 How do you measure the
4 success of a radio station?

5 MR. MORO: Note my objection
6 to form.

7 A By having the highest share
8 possible. I want to have the biggest
9 share of the available audience.

10 Q Any other way?

11 A For me that's success.
12 Success is having the most amount of
13 listeners I can possibly get to use our
14 brands.

15 Q What about ratings?

16 A Correct. With higher
17 ratings, if that's what you mean with
18 higher share, with higher -- with higher
19 share comes higher ratings.

20 Q Would you also consider
21 higher ratings to be a measure of success
22 of a radio station?

23 A Yes.

24 Q How do you measure the
25 success of a show on that station?

1 P. Ferro

2 A It depends which show you're
3 talking -- that you're referencing
4 because some shows have very stiff and
5 direct competition and some shows do not.
6 In the case of Hot 97, in the morning
7 they're up against iHeart Media, which is
8 the biggest radio company in America. We
9 are up against their premiere hip hop
10 based morning show.

11 When I got here, they
12 were -- they were beating us
13 substantially. So the measure of success
14 when I first got here was to catch up to
15 them, right and then stay with them and
16 then try to get a lead on them.

17 On the music side, after the
18 morning show through the midday and the
19 afternoon show, it's still a priority
20 obviously, but you're fighting a music
21 battle. You're fighting what I call the
22 button punch which means if you're in
23 your car and you're punching through the
24 buttons on your pre-setted radio
25 stations, if you spend more time with one

1 P. Ferro

2 of my properties, with one of the
3 properties that I have, you know, it's a
4 win. You have that meter and it's
5 listening, it's capturing that listening,
6 it's you're winning.

7 Does that answer your
8 question?

9 Q You said that Z100 was
10 beating you in the mornings substantially
11 when you got here; is that right?

12 A I didn't say that. I said
13 the Breakfast Club, but Z100 was beating
14 us, too.

15 Q Okay.

16 A But just so you know, the
17 context was I was talking about the
18 Breakfast Club. The morning show on Z100
19 is their biggest CHR. So remember we
20 were talking about categories. They're
21 the CHR top 40 morning show, Elvis Duran
22 is. The Breakfast Club is their hip hop
23 morning show, so it's the one we share
24 audience with mostly on.

25 Q But we are talking about Hot

1 P. Ferro

2 97, the morning show on Hot 97?

3 A Yes.

4 Q You said when you got there,
5 it was being beaten by the iHeart Media
6 properties; correct?

7 A Correct.

8 Q Did you say that they were
9 being beaten substantially or am I
10 misremembering your testimony?

11 A Significantly.

12 Q Significantly. And how do
13 you define significantly? How much were
14 you being beaten by?

15 A I -- what I recall is they
16 had several shares of the pie more
17 listening. I want to say as much as five
18 shares, four shares.

19 Q Do you recall --

20 A It was significant.

21 Q Do you recall what the Hot
22 97 share was at the time that you arrived
23 for the morning show?

24 MR. MORO: Note my objection
25 to form.

1 P. Ferro

2 A I can't, not specifically,
3 but that's one of the reasons why the
4 company hired me.

5 Q And are the iHeart Media
6 properties still beating Hot 97 in the
7 morning?

8 A No.

9 Q When did that change?

10 A Going off memory, 2016 we
11 started making some end roads. By 2017
12 we had caught and passed them and since
13 we get the ratings fairly frequently,
14 there are times when they will beat us,
15 but thankfully for me to keep my job we
16 beat them more frequently. So out of 13
17 books, last time I checked we beat them
18 10.

19 Q What is a book?

20 A A book is four weeks. So
21 January, as an example, has January week
22 one, two, three and four. That is the
23 January book.

24 Q And what you're comparing
25 are the shares and ratings for the Hot 97

1 P. Ferro

2 morning show and the Breakfast Club;

3 correct?

4 MR. MORO: Note my objection
5 to form. Go ahead.

6 A In this instance, yes,
7 that's what we are comparing.

8 Q I'm sorry, I may not have
9 been clear. Is that the only iHeart
10 Media property that is competing in the
11 morning?

12 MR. MORO: Objection to
13 form. Go ahead.

14 A As I mentioned earlier, I
15 feel that we are in competition with
16 every single station on the dial.

17 Q That's what I'm asking you.

18 A Yeah. The morning show is
19 such a different animal than the rest of
20 the day because broadcasting companies
21 put their best talent in the morning,
22 right. That's why Elvis Duran is in the
23 morning. That's why Ebro is in the
24 morning. That's why Steve Harvey is in
25 the morning and the Breakfast Club and so

1 P. Ferro

2 on and so forth, so --

3 Q But what I'm asking you is
4 in the morning you're competing, Hot 97
5 is competing with every other station in
6 the New York area; correct --

7 A Correct.

8 Q -- regardless of the station
9 type; correct?

10 A Correct.

11 Q And one of those stations is
12 hosted -- one of those shows is hosted by
13 Elvis Duran; correct?

14 A Correct, yes.

15 Q And is the Hot 97 morning
16 show beating Elvis Duran in either share
17 or ratings?

18 A Since we are not direct
19 competitors I would have to go back and
20 check because it's not really -- it's not
21 my main focus of competition. We have
22 beaten the Elvis Duran morning show, but
23 I could tell you that consistently it's
24 probably the -- rated higher than Hot 97
25 is.

1 P. Ferro

2 Q When is the last time you
3 recall beating Elvis Duran?

4 A I can't recall.

5 MR. MORO: Note my objection
6 to form. Go ahead.

7 Q Do you recall whether it was
8 in the last three years?

9 MR. MORO: I think he's just
10 trying to answer your question. Go
11 ahead.

12 A No. I just don't pay
13 attention to what Elvis Duran does
14 because there's nothing that I can do
15 with Hot 97 with the format that it's in
16 to compete with Z100. So even though in
17 the morning people are looking for
18 entertainment, our entertainment is more
19 focused to a hip hop leaning segment of
20 the audience and Elvis is more of a
21 mainstream top 40 segment.

22 Q Have you ever heard of
23 something called the ranker, R-A-N-K-E-R?

24 A Yes.

25 Q What is the ranker?

1 P. Ferro

2 A It's the sheet of paper that
3 ranks radio stations from 1 to however
4 many there are in the market.

5 Q Regardless of type of
6 station; correct?

7 A Correct, yes.

8 Q And that rating -- sorry.
9 That ranking is broken out by time slot;
10 correct?

11 A Correct.

12 Q So there will be a ranker
13 for the morning and it would rank all of
14 the radio stations and their share in
15 rating for the morning slot; correct?

16 A Correct.

17 Q And then there's a separate
18 breakout for the midday; correct?

19 A Correct.

20 Q Has Hot 97 ever been rated
21 number 1 on the ranker for the morning?

22 MR. MORO: Objection to
23 form. You can go ahead.

24 A In certain demos, yes.

25 Q What about overall?

1 P. Ferro

2 A When you say overall, are
3 you talking about a 6 plus, the entire
4 universe of listening? Is that your
5 question?

6 Q I'm talking about the ranker
7 ranks stations from 1 to say 25; correct?

8 A Correct, but my question to
9 you is there's several rankers.

10 Q Okay.

11 A There's not just one ranker.
12 There's dozens of rankers.

13 Q Is there one that just
14 compares all the stations in the New York
15 area?

16 MR. MORO: Objection to
17 form.

18 A There is one ranker that
19 Nielsen puts out that is -- that is able
20 to be published by organizations that do
21 not subscribe to Nielsen and that is an
22 overall 12 plus rating, pardon me, a
23 ranker and that is a general Monday
24 through Sunday 6:00 a.m. to midnight
25 ranker. That's what the -- you know,

1 P. Ferro

2 like if the New York Post is writing or
3 the Times are writing an article, that's
4 what they have access to.

5 So that's why I'm saying
6 there's a lot of different rankers.

7 Q Let's focus on that
8 particular one.

9 A Okay.

10 Q So if somebody, if a morning
11 show is rated number 1 on that ranker,
12 they would be considered the number 1
13 morning show in the New York area;
14 correct?

15 MR. MORO: Objection to
16 form.

17 A Incorrect because that
18 ranker that we are talking about is a
19 general 6:00 in the morning until
20 midnight ranker. That's the one that I
21 believe that we are talking about.
22 That's the ranker that ranks all the
23 radio stations. It's a general ranker.

24 Q Is there one that ranks by
25 time slot, morning, midday, afternoon,

1 P. Ferro

2 night?

3 A Yes.

4 Q And is there a ranker that
5 ranks by time lot across all the radio
6 stations in the New York area?

7 MR. MORO: Objection to
8 form.

9 A Is there a -- can you -- I
10 just want to make sure that I'm answering
11 your question as accurately as possible.
12 Can you ask that again, please?

13 Q Using ranker, can you
14 compare shares and ratings by time slot
15 across all stations in the New York area,
16 New York City area?

17 A Yes, yes.

18 Q And when that ranker comes
19 out, it would rank the number 1 through
20 the say number 25 station; correct?

21 A Yes. That is correct.

22 Q Regardless of type of
23 station?

24 A Correct.

25 Q And it would show either the

1 P. Ferro

2 rating or the share of that station;
3 correct?

4 A Correct. Yes.

5 Q Do you recall any instance
6 in which Hot 97, the morning show, was
7 ranked number 1 on that particular ranker
8 that I just mentioned?

9 MR. MORO: Objection to
10 form.

11 A No.

12 Q Do you recall where the Hot
13 97 morning show is ranked on that
14 particular ranker?

15 A Top 5 mostly.

16 Q Mostly?

17 A Yes.

18 Q But you don't recall it ever
19 being number 1; correct?

20 A No.

21 Q Do you recall whether WBLS
22 midday show has ever been ranked number 1
23 in that time slot across the New York
24 area?

25 MR. MORO: Note my objection

1 P. Ferro

2 to form.

3 A Maybe once or twice.

4 Q Just once or twice?

5 A Yeah. It's not consistent.

6 Q When do you recall the last
7 time that the midday show, the BLS midday
8 show was ranked number 1 on that
9 particular ranker?

10 MR. MORO: Note my objection
11 to form.

12 A 2017, maybe -- maybe 2018.

13 Q What about 2022?

14 A No.

15 Q How do you know that?

16 A Because I look at the
17 ratings and 2022 is just last year.

18 Q What do you recall WBLS's
19 midday show being ranked?

20 A In the demo that we look at
21 for WBLS?

22 Q No. In the ranker that
23 ranks all the radio stations in the New
24 York area.

25 MR. MORO: Note my objection

1 P. Ferro

2 to form.

3 A There I can't recall because
4 we don't look at that. Nobody looks at
5 that. It's irrelevant.

6 Q Where do you recall Hot 97
7 being ranked in the midday slot?

8 MR. MORO: Objection to form
9 again.

10 A The overall ranker, again, I
11 can't answer that because I don't look at
12 that.

13 Q Was it ranked higher or
14 lower than BLS?

15 MR. MORO: Objection to
16 form.

17 A I can't answer that because
18 I don't look at that.

19 Q Do you ever recall a time
20 when Hot 97 midday show was ranked higher
21 than the BLS midday show?

22 MR. MORO: Objection to
23 form.

24 A Not in the ranker that
25 you're referring to, but in the ranker of

1 P. Ferro

2 the specific demos, sure, of course.

3 Q And when you say demos, you
4 mean demographics; correct?

5 A Correct.

6 Q And those demographics would
7 be 12 plus; correct?

8 A There's many ways of
9 breaking out --

10 Q Is one of them 12 plus?

11 A Yes.

12 Q Is one of them 18 to 49?

13 Sorry. And is another one 25 to 54?

14 A Yes.

15 Q And ranker would show the
16 ratings in those particular demographics;
17 correct?

18 A Correct. Yes.

19 Q Which demographic do you
20 recall that the Hot 97 midday show was
21 ranked higher than the WBLS midday show?

22 MR. MORO: Objection to
23 form.

24 A 18 to 34 ranker.

25 Q When?

1 P. Ferro

2 A 2022. There's been many
3 times where Hot 97 has outperformed WBLS
4 in that. There's countless times. I
5 can't remember a specific. It's been
6 countless.

7 Q You said the last time you
8 recall that happening was 2022?

9 MR. MORO: Note my objection
10 to form.

11 A Remember, you're asking me
12 to remember something that I -- I don't
13 compare BLS 18 to 34, so just going off
14 memory, the last time that I saw that I
15 paid attention, that I specifically
16 looked at 18 to 34 midday and gave BLS
17 some thought and Hot 97 some thought in
18 that context would have been a couple of
19 months ago, so January, February.

20 Q And do you recall that at
21 that time Hot 97 was beating BLS?

22 MR. MORO: Objection to
23 form.

24 A They're very close.
25 Sometimes BLS would do better. Sometimes

1 P. Ferro

2 Hot 97 would do better.

3 Q Give me one second. I just
4 want to call up a document.

5 A Sure.

6 MR. MORO: You said you're
7 pulling up an exhibit?

8 MR. LICUL: I might if I can
9 grab it right away, but I'll let you
10 know what it is.

11 Why don't we move on. I'll
12 get back to that just so we don't
13 waste time.

14 Q All right. Let's switch
15 gears a little bit. Have you heard the
16 term on-air personality?

17 A Yes. Of course.

18 Q What is an on-air
19 personality?

20 A It is a person that speaks
21 into a microphone in an air studio and it
22 is broadcast through the radio and that's
23 what an on-air personality is and does.

24 Q And does MediaCo have
25 contracts with each of its on-air

1 P. Ferro

2 personalities?

3 A With the -- with most of
4 them, yes. Not all of them.

5 Q Not all of them? And when
6 you say not all of them, are you
7 excluding syndicated shows?

8 A I'm excluding weekend talent
9 and part-time talent.

10 Q Does it have contracts with
11 all of its full-time non-syndicated
12 on-air personalities?

13 A Yes.

14 Q And are the responsibilities
15 for each of the on-air personalities
16 described in their individual contracts?

17 MR. MORO: Note my objection
18 to form.

19 A Yeah. I mean generally
20 they're described, yeah, sure.

21 Q The important
22 responsibilities are described in the
23 contract; correct?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A Yes. Correct.

3 Q You've seen those contracts;
4 correct?

5 MR. MORO: Objection to
6 form.

7 A Yes, I have.

8 Q You've been part of
9 negotiating those contracts; correct?

10 MR. MORO: Note my objection
11 to form here.

12 A I negotiate mostly the
13 salaries and the benefits. I don't -- I
14 don't do the language if that's what you
15 mean.

16 Q Do the contracts include
17 terms related to salary and benefits?

18 A Yes.

19 Q Tell me what the
20 responsibilities are for the on-air
21 personalities --

22 MR. MORO: Objection.

23 Q -- what do they do?

24 MR. MORO: Sorry about that,
25 Valdi. Objection to form.

1 P. Ferro

2 A For which show?

3 Q Any show, what are the
4 responsibilities of on-air personalities?

5 MR. MORO: Objection to form
6 again.

7 A There's significant
8 differences. I could -- I could walk you
9 through different shows.

10 Q Can you walk me through what
11 all of them do that's in common?

12 MR. MORO: Objection to
13 form.

14 A Play commercials.

15 Q Anything else?

16 A Broadcast some sort of
17 music. Broadcast promotional
18 announcements.

19 But what I require from
20 somebody in the overnight or, you know,
21 midday show is very different than an
22 afternoon show or morning show. I don't
23 expect the same requirements on Sunday at
24 6:00 a.m. as I would on Tuesday at 6:00
25 a.m.

1 P. Ferro

2 Q Mr. Ferro, I asked you what
3 are the things that they do that are in
4 common?

5 A I thought I had answered
6 that. I'm sorry.

7 Q Yeah, but then you drifted
8 off into something else. Is there
9 anything else that you can recall that
10 they do that is in common --

11 MR. MORO: Objection.

12 Q -- other than playing
13 commercials, broadcast music and do
14 promotions?

15 MR. MORO: Objection to
16 form.

17 A That they all do in common,
18 that's it.

19 Q Do each of the on-air
20 personalities host a show within a time
21 slot?

22 A Yes.

23 Q And are the shows either
24 four or five hours long?

25 A Yes.

1 P. Ferro

2 Q And the midday slot is five
3 hours long; correct?

4 A It depends. Some are. Some
5 are less, four hours.

6 Q I'm talking about at
7 MediaCo.

8 A Yes. At MediaCo, yes.

9 Q The morning slot is four
10 hours long; correct?

11 A Correct.

12 Q What about the night slot,
13 is that four or five hours?

14 A That is five hours.

15 Q All right. What about
16 prepping the studio, is that the
17 responsibility of an on-air personality?

18 MR. MORO: Objection to
19 form.

20 A When you say prepping the
21 studio, what does that mean?

22 Q Getting the studio ready to
23 broadcast on air.

24 A The studio is ready to
25 broadcast on air. All you have to do is

1 P. Ferro

2 walk in and start broadcasting.

3 Q For each of the shows?

4 A No, no, no.

5 Q Which shows require more
6 prep or any prep?

7 A Morning shows usually
8 require more prep because there's a lot
9 more people, so it requires more prep.

10 Q How much prep?

11 A To walk in and start
12 broadcasting, it's -- that preparation
13 is -- could take anywhere between 5
14 minutes to 15 minutes, 20 minutes.

15 Q And you said there are more
16 people. Are there more staff available
17 to do that prep for the morning show?

18 MR. MORO: Objection to
19 form.

20 A There's more staff required
21 for all the content that's needed for a
22 morning show.

23 Q And is there more staff
24 available to do the prep work for the
25 morning show?

1 P. Ferro

2 A You could phrase it like
3 that, yes.

4 Q And is the host doing the
5 prep or are the staff doing the prep?

6 A The host usually directs the
7 content there for the preparation.

8 Q Are all on-air personalities
9 responsible for doing interviews?

10 MR. MORO: Note my objection
11 to form.

12 A Not all of them, no.

13 Q Which ones are not?

14 A The overnight staff, the
15 weekend staff.

16 Q Anyone else?

17 A No, no.

18 Q Are all on-air personalities
19 responsible for editing interviews?

20 A No.

21 Q Which ones are not?

22 A The ones that don't know how
23 to.

24 Q Who are those people?

25 A I don't know.

1 P. Ferro

2 Q You don't know anyone of
3 your on-air personalities who is unable
4 to edit an interview?

5 A Correct because all on-air
6 personalities have assistants in the
7 studio and board operators, so to respect
8 the on-air personality, I don't ask that
9 particular question out of respect.

10 Q During the time that
11 Ms. Scott worked at BLS, who edited her
12 interviews?

13 MR. MORO: Objection to
14 form.

15 A When Ms. Scott was on air
16 here, for the bulk of the time that I was
17 here I wasn't managing or supervising
18 WBLS, so I didn't -- I don't know who did
19 it for her.

20 Q Do you know if anyone did it
21 for her?

22 A I'm sure that --

23 MR. MORO: Objection to
24 form. Go ahead.

25 A I'm sure that if she wanted

1 P. Ferro

2 somebody to do it for her, I'm sure she
3 could have been capable of doing it.

4 Q That wasn't my question. My
5 question is do you know if anyone edited
6 her interviews?

7 MR. MORO: Objection to
8 form.

9 A No.

10 Q Who edits Ebro's interviews?

11 A It could be a combination.
12 It depends. There's so many interview --
13 interviews and there's so much content.
14 If an interview is live, it's not edited.
15 It is -- it's live, so it cannot be
16 edited. If an interview is prerecorded
17 and Ebro wants to edit, he will or he
18 will direct one of the producers to edit.

19 Q How many producers does Ebro
20 have?

21 A He has one executive
22 producer and one person that plays
23 multiple roles that also helps him
24 produce.

25 Q Who's his executive

1 P. Ferro

2 producer?

3 A Jason Griffin.

4 Q And who is the other
5 producer?

6 A We call him DJ Juanyto. His
7 name is Juan -- oh, God, why is it
8 escaping me? Oh, goodness.

9 Q It's okay. If you remember
10 it later, just let us know.

11 A I will and it's not Juan.
12 Actually, it's John, which is -- which
13 throws me off even more. We have another
14 person called Juan on staff. I
15 apologize.

16 Q That's okay. A lot of this
17 we are using the personality's sort of
18 stage names; right?

19 A Yes.

20 Q So if we are okay with doing
21 that, that's fine.

22 Why is it that you know that
23 Ebro has one or two producers to edit his
24 interviews, but you don't know whether
25 Ms. Scott has anyone to edit her

1 P. Ferro

2 interviews?

3 MR. MORO: Objection to
4 form.

5 A Because there's so much more
6 content that Ebro and that morning show
7 puts on air and it's constant and during
8 the slot that Shaila covered, you know,
9 if an artist -- you know, the interviews
10 on WBLS were really dictated by the time
11 that the artist could come in, not
12 necessarily the person on air.

13 Q So if Mariah Carey wanted to
14 do an interview, you would do that
15 interview when she could come in;
16 correct?

17 MR. MORO: Objection to
18 form.

19 A Yes. That is true.

20 Q She's considered an A list
21 artist, correct?

22 A For WBLS, absolutely, yes.

23 Q What about for Hot 97?

24 A I hope she never hears this,
25 but she might have been at one point, but

1 P. Ferro

2 now we just don't play her music anymore.
3 She doesn't make music that works for Hot
4 97 format.

5 Q So if she said she wanted to
6 do an interview in the morning, would you
7 say no?

8 MR. MORO: Objection to
9 form.

10 A With Ebro I would absolutely
11 let it and encourage it, yes.

12 Q So if Mariah Carey came in
13 and did an interview with Ebro that was
14 prerecorded, one of his producers would
15 edit that interview; correct?

16 MR. MORO: Objection to
17 form.

18 A For a person of that
19 stature, Ebro would want to be involved
20 and he would either edit himself or
21 direct the edit. That's for somebody,
22 you know, of that stature.

23 Q If Mariah Carey did an
24 interview in the midday while Ms. Scott
25 was at MediaCo, who would edit that

1 P. Ferro

2 interview?

3 MR. MORO: Objection to
4 form.

5 A I would encourage that
6 interview happen live so the audience
7 could participate.

8 Q Who would edit that
9 interview if the interview was with
10 Ms. Scott?

11 MR. MORO: Objection to
12 form.

13 A It could be Ms. Scott. It
14 could be an intern. It could be the
15 board operator that was there. Anybody
16 could edit. Edit is one of the
17 simplest -- it's one of the first things
18 you learn in radio, so anybody.

19 Q You said it could be. Could
20 you identify a person who was working
21 with Ms. Scott during the midday who
22 would edit that interview?

23 MR. MORO: Objection to
24 form.

25 A I cannot because by the time

1 P. Ferro

2 that I engaged with WBLs, the pandemic
3 happened soon after and then she worked
4 from home.

5 Q Who edited Flex's
6 interviews?

7 A The person that he --
8 there's a person that he hires and again
9 I know his stage name, I don't know his
10 real name off the top of my head, but --

11 Q Who's that?

12 A His name is Tat, Tat Wza.

13 Q Did MediaCo pay for Flex to
14 hire Tat?

15 MR. MORO: Objection to
16 form.

17 A Flex pays him to do other
18 functions for him, especially since
19 there's a lot of content that Flex does
20 outside of the station particularly on
21 Instagram and Twitter and that's where
22 Tat helped him because there's so much of
23 it.

24 In the station, and I should
25 correct this, Flex does not interview

1 P. Ferro

2 artists. He doesn't interview artists.
3 He invites them and what they do is
4 called a freestyle and the people that
5 edit that, which is it's very music based
6 and not a traditional interview where a
7 host asks questions, that's edited by our
8 digital department.

9 Q Does Flex have a producer?

10 A No.

11 Q So Flex acts as his own
12 producer?

13 A Flex acts as his own
14 producer and then he would use Tat to
15 help him run the actual on-air board when
16 he's mixing, you know, when he's blending
17 music in a separate studio and he can't
18 actually be on the boards.

19 Q So when Tat comes in to help
20 Flex on his show, who pays for Tat's
21 services?

22 A It's a --

23 MR. MORO: Objection to
24 form.

25 A It's a combination. MediaCo

1 P. Ferro

2 pays Tat a certain amount of money and
3 then I don't know what Flex's deal is,
4 but I do understand that Flex pays him
5 through his, you know, through his
6 person.

7 Q Do you know if Flex pays him
8 through his salary at MediaCo?

9 A Through his salary? If Flex
10 is paying him on the side, he must be
11 using some of the money he makes that we
12 pay him to pay him. Is that what you
13 mean?

14 Q Does MediaCo pay Flex an
15 amount of money on top of salary and
16 bonuses to allow him to pay for someone
17 like Tat?

18 A No.

19 MR. MORO: Objection to
20 form.

21 A Not that I'm aware of.

22 Q Does MediaCo pay a separate
23 amount of money to a company owned or run
24 by Flex?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A Yes.

4 Q And what's the purpose of
5 that payment from MediaCo to Flex's
6 company?

7 MR. MORO: Objection to
8 form.

9 A That is for digital content
10 and what I mean by that is video and
11 audio with artists with the freestyles
12 that I had forementioned for other
13 services that he provides to our digital
14 department and I'm not sure what the
15 details are there. I don't run the
16 digital department.

17 Q Do you know how much MediaCo
18 pays Flex's company for the digital work?

19 A I'm familiar with what we
20 pay him for his on air. His side -- his
21 other deal, if you will, I'm not sure.

22 Q And so Tat would be paid via
23 that other deal; correct?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A I don't know how he pays
3 Tat. I know that Tat is an employee of
4 MediaCo, but I don't know what --

5 Q So is Tat a salaried
6 employee of MediaCo or an hourly
7 employee?

8 MR. MORO: Objection to
9 form.

10 A I believe he was hourly and
11 I believe at some point he became
12 full-time, I don't remember when that
13 was, but I recall that happening at some
14 point.

15 Q So Tat is a MediaCo
16 employee; right?

17 A Yeah.

18 Q And he helps Flex with the
19 show; correct?

20 A Correct. Yes.

21 MR. MORO: Valdi, one quick
22 second just because I had bookmarked
23 this for 12:30. Do you have a plan
24 for when you are anticipating a lunch
25 break?

1 P. Ferro

2 MR. LICUL: Give me 10 or 15
3 minutes if that's okay with everyone
4 just to get through some of this. Is
5 that okay?

6 THE WITNESS: Absolutely.
7 Yeah. I'm good.

8 MR. LICUL: Okay.
9 Lisa, is that okay with you?

10 MS. REPORTER: Yes.

11 Q All right. What about is an
12 on-air personality also responsible for
13 working their own board?

14 A I didn't catch that. I'm
15 sorry.

16 Q Is on-air personality also
17 responsible for being his or her own
18 board op?

19 MR. MORO: Objection to
20 form.

21 A Not for Hot and WBLS.

22 Q Who was Ms. Scott's board
23 op?

24 A I don't know, but when the
25 pandemic happened it was -- oh, goodness,

1 P. Ferro

2 the name escapes me, but she's there all
3 the time. She's the sweetest person in
4 the world. Let me get back to you with
5 the name, but I -- that's the only person
6 that I would see during the midday slot
7 when Shaila was here that was running the
8 board.

9 Q After the pandemic, on-air
10 personalities could do their shows from
11 home; correct?

12 MR. MORO: Objection to
13 form.

14 A Correct.

15 Q But the board operator would
16 be in the station?

17 A Correct.

18 Q You didn't send a board to
19 each individual on-air personality's
20 home; right?

21 A It would have been very
22 expensive.

23 Q Right. Prior to the
24 pandemic, who was Ms. Scott's board op?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A I don't know.

4 Q Do you know if she had one?

5 MR. MORO: Objection to

6 form.

7 A I can't say with certainty.

8 Q Well, even if you can't say
9 with certainty, do you believe she had
10 one?

11 MR. MORO: Objection to

12 form.

13 A Yes, because it was standard
14 for people to have board ops or
15 assistance and when I would look into the
16 on-air studio and say hi or good morning
17 or whatnot, there were people in the
18 studio. I just didn't question what they
19 were doing.

20 Q Did you see anyone operating
21 Ms. Scott's board when you peeked into
22 the control room?

23 MR. MORO: Objection to

24 form.

25 A I can't -- I can't recall.

1 P. Ferro

2 I just can't recall.

3 Q By the way, where is your
4 office in relation to the studios?

5 A Unfortunately it's on the
6 other side of the building, not ideal.

7 Q And the building is on
8 Hudson Street; is that right?

9 A Yes. That is correct.

10 Q And prior to the pandemic,
11 all the on-air personalities, we are
12 talking about the weekday ones, the
13 full-time weekday ones, not syndicated,
14 did those shows from the station on
15 Hudson Street; correct?

16 A Correct.

17 MR. MORO: Objection to
18 form.

19 A Correct.

20 Q And how often did you go
21 from one side of the building to the
22 other side of the building to walk
23 through the studios?

24 A Since our engineering and
25 production department is on that side of

1 P. Ferro

2 the building, three, four times a day.

3 Q And did you do that at any
4 particular times of the day?

5 A No.

6 Q No?

7 A No.

8 Q Sorry. I just didn't hear
9 you.

10 A No, not any -- like I
11 wouldn't say well, it's 11:00, it's time
12 to make my rounds. It's whenever I
13 needed to I would walk over.

14 Q But you recall walking over
15 while Ms. Scott was doing her show;
16 correct?

17 A Correct.

18 Q And you walked over, you
19 recall walking over, seeing Ms. Scott
20 doing her show on a daily basis?

21 A Before the pandemic?

22 Q Yes.

23 A Yes.

24 Q And you can't recall ever
25 seeing anyone operate her board; correct?

1 P. Ferro

2 MR. MORO: Objection to

3 form.

4 A Correct. When a personality
5 is on air, it's just bad form to
6 interrupt and walk in and, you know, they
7 might be doing one of a couple of things
8 and, you know, I would wave like I do and
9 just make sure that, you know, that they
10 know that it's -- everything is good and
11 when the program director walks by, you
12 want to make sure that they are -- you
13 know, that the air staff is good.

14 On occasion you say hey, I
15 just want to say hi, thank you, you
16 close, you let them do their business.
17 You respect that boundary, you know. You
18 don't coach a player as they're playing.
19 You coach them after.

20 Q Does the studio have
21 windows?

22 A On certain walls, yes.

23 Q And could you see who was in
24 the studio while Ms. Scott was on the
25 air?

1 P. Ferro

2 A If I -- if I made an attempt
3 to go toward where the window is, yes,
4 but it's out of the way.

5 Q So when you would wave,
6 would you wave through the window?

7 A I would wave through a small
8 sliver of glass on the door and I
9 would -- you know, if she would tell me
10 to come in, then I would come in. If she
11 would wave back, I would assume that she
12 was --

13 Q And typically where did
14 Ms. Scott sit in the studio?

15 A Behind the on-air board.

16 Q Do you ever recall anyone
17 else being behind the on-air board?

18 A Sure. Yeah.

19 Q Operating the board?

20 A Not necessarily operating
21 the board.

22 Q Who operated Ebro's board?

23 MR. MORO: Objection to
24 form.

25 A Ebro sits behind his board,

1 P. Ferro

2 but the bulk of the board operation is
3 done by a person called Shani Kulture,
4 Shani Shuret, Suret (phonetic).

5 Q And is Shani a MediaCo
6 employee?

7 A Yes.

8 Q And who operated Flex's
9 board?

10 A Tat Wza operates it when
11 he's mixing.

12 MR. LICUL: Why don't we
13 probably -- let's take a lunch break.
14 So what are we looking at, half an
15 hour?

16 Off the record.

17 (Time noted: 12:38 p.m.)

18 (A lunch recess was taken.)

19 (Time noted: 1:21 p.m.)

20 Q Mr. Ferro, I'm going to
21 introduce an exhibit which will be marked
22 Ferro Exhibit 1. It is two pages. It is
23 Plaintiff's 2 and Plaintiff's 6.

24 (The above-referred-to
25 ratings documents were marked as

1 P. Ferro

2 Exhibit Ferro 1 for identification as
3 of this date.)

4 Q Please take a look at that,
5 those two pages and tell me if you
6 recognize them, yes or no.

7 A Are you going to put them on
8 your screen?

9 MR. MORO: I'm pulling them
10 up.

11 Q Chris will put them up for
12 you.

13 MR. MORO: I see what is
14 Exhibit 1.

15 MR. LICUL: It says Exhibit
16 Ferro 1.

17 MR. MORO: Exhibit Ferro 1.

18 MR. LICUL: It should be the
19 only documents so far on Exhibit 1.

20 MR. MORO: I see one. It
21 doesn't have exactly that title, but
22 it says -- the title I am seeing is
23 Exhibit 0001 - ratings Jan and Mar
24 2022. Is that what you're looking
25 at?

1 P. Ferro

2 MR. LICUL: No. Well, does
3 the Bates number on the bottom say PL
4 000002?

5 MR. MORO: Yes, it does.

6 MR. LICUL: And the second
7 page ends with a 6?

8 MR. MORO: It does.

9 MR. LICUL: Okay. Then we
10 are both looking at the same thing.

11 MR. MORO: Can you see this
12 on the screen?

13 THE WITNESS: If not, I can
14 look at yours.

15 Q So Mr. Ferro, take a look at
16 that first page and tell me if you
17 recognize it?

18 A I recognize what it is,
19 sure.

20 Q What is it?

21 A It is a full 12 plus ranker
22 of the January 2022 Nielsen survey for
23 the 10:00 a.m. to 3:00 p.m. midday slot
24 and it's showing average rating point.

25 Q And is this listed from the

1 P. Ferro

2 top rated show to the bottom rated show?

3 A Correct.

4 Q And who's at the top?

5 A There's a tie, WBLS with a
6 0.4, 701,000 cume and then LTW with a .4
7 with 1,342,500 cume.

8 Q So WBLS and Light FM had the
9 same rating during that period for 10:00
10 to 3:00 slot; correct?

11 MR. MORO: Objection to
12 form.

13 A That's what I'm seeing.

14 Q And who was the on-air
15 personality for WBLS at that time?

16 A At this time it would have
17 been Shaila.

18 Q And where does Hot 97's
19 midday show rank?

20 A .4, .3 and it's a .1 and
21 there's a bunch of ties, but it's at the
22 middle of the ranker. Again, this is 12
23 plus. It's highly -- it's meaningless
24 mostly, but it's a .1.

25 Q And Hot 97 is ranked tied

1 P. Ferro

2 for 14; correct?

3 A Right, because there's so
4 many that are ranked for 7th, 3rd and
5 1st.

6 Q Do you ever recall seeing a
7 ranker like this where Hot 97's midday
8 show was ranked higher than BLS's midday
9 show?

10 MR. MORO: Objection to
11 form.

12 A Yes.

13 Q When?

14 A Many times in its correct
15 demo. This is the incorrect demo. This
16 is market overall.

17 Q We understand you don't
18 think this is important. You've said
19 that many, many times.

20 What I'm asking you is do
21 you recall when it is that you saw the
22 Hot 97 midday show ranked higher than the
23 WBLS midday show on a chart like this?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A Yes.

3 Q When was the last time?

4 A A couple of months ago,
5 several months ago. I'd have to go back
6 and refresh my memory.

7 Q And do you recall where WBLS
8 was ranked several months ago?

9 MR. MORO: Objection to
10 form.

11 A Several months ago, again,
12 I'd have to look at my notes. I don't --
13 I don't remember all the numbers.

14 Q Well, I understand. Do you
15 recall where it was ranked? It wasn't
16 ranked 1; correct?

17 MR. MORO: Objection to
18 form.

19 A No, it wasn't.

20 Q Do you recall where it was
21 ranked approximately?

22 A No.

23 Q Do you recall whether it was
24 ranked in the top 5?

25 A I don't recall where it was

1 P. Ferro

2 ranked.

3 Q And where was the Hot 97
4 midday show ranked?

5 MR. MORO: Objection to
6 form.

7 A I -- for what demo?

8 Q This one, 12 plus.

9 A Oh, I'm sorry, I never look
10 at 12 plus, so I would not know. I don't
11 know.

12 Q Mr. Ferro, did I ask you --
13 do you know or don't you know?

14 A I don't know.

15 Q But you do recall that at
16 some point in the last several months
17 that Hot 97 was ranked higher than BLS
18 for midday; correct?

19 MR. MORO: Objection to
20 form.

21 A I don't look at this, so I
22 can't -- no, I don't know because I don't
23 look at this. Nobody does.

24 Q This is not important to
25 you; correct?

1 P. Ferro

2 A This is not important to
3 anybody. Not one person that I know of
4 in this industry is 12 plus important,
5 not one. Not in any market, not in New
6 York.

7 Q So --

8 A But can I finish? Not in
9 New York --

10 Q Sure.

11 A -- not in LA, not in Miami,
12 not in any market. 12 plus is
13 irrelevant. I'm sorry, I just -- I just
14 want you to know that.

15 Q You've said that many times.
16 Can you just try to answer my question
17 even if you don't think it's important?
18 Can you do that for me?

19 MR. MORO: He's answering
20 your question, Valdi.

21 A I feel all your questions
22 are important and of course I'll answer
23 to the best of my ability.

24 Q So this is a 12 plus
25 demographic where the midday BLS show,

1 P. Ferro

2 the Scott show, is ranked number 1
3 according to ratings; correct?

4 A Correct.

5 Q And the Hot 97 show is tied
6 for 14; correct?

7 A Correct.

8 Q All right. So let's take a
9 look at the next page, which is
10 Plaintiff's 6 of Ferro Exhibit 1.

11 MR. MORO: Can you see that?

12 THE WITNESS: Yup.

13 Q Do you see that?

14 A Yes.

15 Q And there it's broken out by
16 demographics; correct?

17 A Correct.

18 Q And where is Ms. Scott's
19 show ranked on the demographics for 18 to
20 49?

21 A This only shows one station,
22 so it's only one station. I haven't -- I
23 don't see a ranker. When you pull
24 Nielsen numbers and you only put one
25 station, it could be the very last

1 P. Ferro

2 station, it would still show number 1.

3 So I can say what I'm seeing
4 which is 12 plus a .4 with a 6.6. share
5 and then 18 to 49 a .3 with a 6.8 share
6 and 25 to 54 a .3 with a 6.2 share and
7 this was in March of 2022.

8 Q And so to you this does not
9 show that Ms. Scott's show was ranked
10 number 1 in the 18 to 49 demographic?

11 A It only shows one radio
12 station.

13 Q I understand what it shows,
14 but next to the name it says 1. Do you
15 see that?

16 A Yes.

17 Q Does that indicate that it's
18 ranked number 1 in that demographic?

19 MR. MORO: Objection to
20 form.

21 A It indicates to me that
22 there's one station on this ranker.

23 Q Now, take a look at the
24 average share. Ms. Scott's show has an
25 average share of 6.8 in the 18 to 49

1 P. Ferro

2 demographic; correct?

3 A 6.8, yes, that is correct.

4 Q And a 6.2 share in the 25 to
5 54 demographic; correct?

6 A Correct. Yes.

7 Q She has a higher share in
8 the younger demographic; correct?

9 A She has a higher share in
10 the younger demographic in this month,
11 yes.

12 Q By the way, take a look at
13 the first page again, Plaintiff's Bates
14 Number 2. Do you recall any ranker like
15 this 12 plus where Hot 97's morning show
16 was ranked number 1 for its time slot?

17 MR. MORO: Objection to
18 form.

19 A No.

20 MR. LICUL: All right. We
21 can put that away.

22 MR. MORO: Done with this
23 one you said?

24 MR. LICUL: Yes, I am.

25 Thank you.

1 P. Ferro

2 Q Did MediaCo have a human
3 resources department?

4 A MediaCo has a human
5 resources department.

6 Q Fair enough. And does that
7 human resources department service both
8 Hot 97 and BLS?

9 A Yes, it does.

10 Q And earlier you described
11 Brad as COO and GC; correct?

12 A Correct.

13 Q And is Brad COO and GC for
14 both Hot 97 and BLS?

15 A For both. He's for MediaCo,
16 so --

17 Q Right. So his
18 responsibilities cover both stations;
19 correct?

20 MR. MORO: Objection to
21 form.

22 A Yes.

23 Q Getting back to the
24 responsibilities of on-air personalities,
25 do all on-air personalities do

1 P. Ferro

2 endorsements?

3 A Not all of them, but the
4 prime time talent, yes.

5 Q Who do you define as the
6 prime time talent?

7 A Prime time talent is anybody
8 that's not in overnight or weekends, so
9 full-time people from 6:00 in the morning
10 until midnight.

11 Q What about appearances, do
12 all of those prime time talent, on-air
13 talent do appearances?

14 A Yes. They're able to, yes.

15 Q How are endorsements or
16 appearances -- well, withdrawn.

17 Who decides which one of the
18 on-air talent will do an endorsement or
19 appearance?

20 MR. MORO: Objection to
21 form.

22 A Normally the client that's
23 purchasing the advertisement, they will
24 say we would like for Valdi to come out
25 to Main and 1st and endorse our

1 P. Ferro

2 doughnuts.

3 Q What's the difference
4 between an endorsement and an appearance?

5 A An appearance is when a
6 person from the station goes and is
7 physically at a location. An endorsement
8 is when you record a commercial and you
9 say my name is such and I use and like
10 this product, so therefore I endorse its
11 use and you should use it, too.

12 Q And on-air personalities are
13 paid separately for endorsements and
14 appearances; correct?

15 A Yes. That is correct.

16 Q Earlier we spoke about
17 syndicated personalities. What does it
18 mean to be syndicated?

19 A Syndication means when you
20 are at a level of God given talent that a
21 company gets interested in using your
22 persona, your content and they make it
23 available to affiliates, which means a
24 radio station in another market that is
25 interested in carrying or airing that

1 P. Ferro

2 person in their market.

3 Q Meaning the show is aired
4 across various radio stations; correct?

5 A Sometimes just one radio
6 station. Once you're on two you're
7 considered syndicated, but there's some
8 shows that are in many.

9 Q Some shows where?

10 A That are in many stations.

11 Q In many stations?

12 A Right.

13 Q So Steve Harvey is
14 syndicated; correct?

15 A Yes.

16 Q So his show appears in the
17 morning slot on WBLS; correct?

18 A Correct, yes.

19 Q And it also is heard on
20 other stations across the country;
21 correct?

22 A Yes. That is correct.

23 Q Lenny Green is syndicated;
24 correct?

25 A Yes. Lenny Green is

1 P. Ferro

2 syndicated.

3 Q How are the syndicated
4 on-air personalities paid?

5 A I -- so that question,
6 that's a big general question. Typically
7 a radio station will pay for a syndicated
8 show to be on through commercials so, for
9 example, a radio station will say, you
10 know, to carry your show I will give you
11 two commercials per hour. That's one of
12 the ways to do it.

13 I am not entirely sure how
14 the Lenny Green show works, but I do know
15 that Steve Harvey purchases commercials
16 from WBLS to be on WBLS.

17 Q Would it be fair to say that
18 a station purchases the rights to air a
19 syndicated show?

20 MR. MORO: Objection to
21 form.

22 A Throughout the term of the
23 contract, yes.

24 Q So the station doesn't pay
25 that on-air personality as an employee to

1 P. Ferro

2 work a particular time slot; correct?

3 A Correct. It's usually the
4 syndicate.

5 Q There's some kind of a
6 transaction where it pays to air the
7 show; correct?

8 A Right. The syndicator will
9 pay that show.

10 Q Was Ebro syndicated?
11 MR. MORO: Objection to
12 form.

13 A Was he or is he?

14 Q Was he?

15 A He was not syndicated up
16 until 2020.

17 Q And then in 2020, did he
18 become syndicated?

19 A Yes, he did.

20 Q And is he still syndicated?

21 A Yes, he is.

22 Q What about Flex?

23 A Flex we are in the middle on
24 working a deal because there is interest,
25 but it hasn't materialized yet.

1 P. Ferro

2 Q And so to your knowledge,
3 Flex has never been syndicated? He's
4 always had a contract with MediaCo or
5 Emmis to air his show; correct?

6 MR. MORO: Objection to
7 form.

8 A Yes. Correct.

9 Q All right. Let's switch
10 gears a little bit. I'm going to be
11 asking about compensation for on-air
12 personalities and I'm not including in
13 this the syndicated folks. Do you
14 understand that?

15 A Yes, I do.

16 Q All right. What are the
17 various components of pay for on-air
18 non-syndicated personalities?

19 MR. MORO: Can you repeat
20 that? You broke up a little bit.
21 I'm sorry.

22 MR. LICUL: Sure.

23 Q What are the different
24 components of compensation for
25 non-syndicated on-air personalities at

1 P. Ferro

2 MediaCo?

3 A So the components of pay are
4 your regular salary which you've
5 negotiated and agreed to work for, then
6 there is additional compensation with
7 remote appearances as mentioned earlier.
8 There's endorsements where a personality
9 will say my name is such and I endorse
10 this product. Then there's the voicing
11 of commercials, which is also a source of
12 income.

13 Depending on your ability to
14 do digital or podcasts, if you, you know,
15 if you do certain amount of digital
16 content, you will be paid for that. I
17 mean we used to -- we provide ratings
18 bonuses in the contracts, but we haven't
19 paid a ratings bonus in a while, but it's
20 in there. It's in there as well.

21 Q How long is a while?

22 A Two years.

23 Q Is that because no one has
24 met the ratings bonuses?

25 A Correct. Do you want me to

1 P. Ferro

2 elaborate?

3 Q Sure.

4 A Okay. So ratings can bounce
5 pretty drastically month to month, so
6 ratings bonuses are done quarterly. So
7 you would look at January, February,
8 March for Q1, so on and so forth and then
9 there's the thresholds that you have to
10 perform or the station has to perform
11 above for you to qualify as a -- to
12 qualify to earn that bonus.

13 Brad and I realized that we
14 weren't paying these bonuses some time
15 ago and Brad wanted to compensate our
16 talent and make up for that and he
17 thought digital -- digital creation might
18 be a way to do that.

19 The reason why ratings
20 bonuses haven't been paid is because
21 throughout the country everywhere radio
22 listening has trickled down over the past
23 12 years and nobody's had enough audience
24 to trip that bonus payment. So we are
25 finding that digital is a way to

1 P. Ferro

2 compensate our on-air to supplement their
3 pay.

4 Q So MediaCo pays on-air
5 personalities extra money for digital
6 content; correct?

7 MR. MORO: Objection to
8 form.

9 A It's when there's a
10 specific -- like if there's a podcast,
11 like there will be revenue share, yeah.

12 Q What other kinds of digital
13 work does MediaCo pay extra for?

14 MR. MORO: Objection to form
15 again.

16 THE WITNESS: I'm sorry.

17 MR. MORO: Go ahead.

18 A We haven't put any of it
19 into practice yet but, you know, it's the
20 on-air stuff does a lot of digital
21 content. They do a lot of posting to
22 their social media to promote their show
23 to try to get the tune in, to try to get
24 that ratings bonus.

25 Q And that's money that will

1 P. Ferro

2 be paid on top of a salary; correct?

3 MR. MORO: Objection to
4 form.

5 A If the ratings bonus is met,
6 yes.

7 Q Well, no. I'm talking about
8 the amount paid for digital content.
9 That would be paid in addition to the
10 salary; correct?

11 MR. MORO: Objection to
12 form.

13 A Yeah. We've been thinking
14 about it. We haven't done it yet. We
15 haven't done it yet.

16 Q Well, for example, Flex, you
17 mentioned earlier MediaCo pays Flex's
18 company for digital work; correct?

19 MR. MORO: Objection to
20 form.

21 A I don't know what that
22 contract is for because that's not -- I
23 didn't create that contract. I didn't
24 negotiate that contract. I don't know
25 what the stipulations are for that

1 P. Ferro

2 contract.

3 What I -- what MediaCo radio
4 pays Flex for is for his on-air
5 performance, for his Funk Flex freestyles
6 for all the posting that he does on his
7 social media.

8 Q And as you understand it,
9 MediaCo pays an additional amount to
10 Flex's company for some type of digital
11 content; correct?

12 MR. MORO: Objection to
13 form. Go ahead.

14 A I don't know what that
15 entitles. I don't know what that -- I
16 mean I leave it up to you guys, the
17 lawyers to look at.

18 Q Well, I'm asking what you
19 know. I'm not asking --

20 A I don't know. I'm telling
21 you I don't.

22 Q Has MediaCo paid anyone
23 extra for creating digital content? I'm
24 limiting this to the on-air
25 personalities.

1 P. Ferro

2 MR. MORO: Objection to
3 form. Go ahead.

4 A Not yet. It's something
5 that I've been thinking about and I
6 shared it with Brad to help offset the
7 decline in ratings.

8 Q How do you determine, how
9 does MediaCo determine and before that
10 Emmis, how much to pay in salary to an
11 on-air personality?

12 MR. MORO: Can you read that
13 back for me?

14 (The requested portion was
15 read back by the Court Reporter.)

16 MR. MORO: Just note an
17 objection to form. Go ahead.

18 A So we have an agreement
19 with -- BLS and Hot have an agreement
20 with ACTRA. It's an agreement that
21 provides guidelines as to minimum pay, so
22 on and so forth, so we usually start
23 there. If we are negotiating a contract
24 extension, what we usually offer or what
25 we have offered in the past is cost of

1 P. Ferro

2 living adjustments or things of that
3 nature. If there's somebody that we want
4 to bring aboard, we will take a look at
5 what we -- you know, comparative and
6 offer that.

7 Q Anything else?

8 A Not that I could think of
9 right now.

10 Q Am I correct that on-air
11 personalities at MediaCo are paid
12 different salaries?

13 A That MediaCo? Everybody is
14 paid differently, of course, yes.

15 Q Did you hear my question?

16 A I just don't know if I
17 understood it. Can you rephrase it?

18 Q Is it true that the on-air
19 personalities at MediaCo are paid
20 different salaries?

21 A Yes.

22 MR. MORO: Objection to
23 form.

24 Q Who is the highest -- who
25 has the highest salary?

1 P. Ferro

2 A I don't know off the top of
3 my head and I don't want to guess.

4 Q Who do you believe has the
5 highest salary?

6 A I believe the highest salary
7 is most likely Ebro.

8 Q Who do you believe has the
9 second highest salary?

10 A I would think Flex.

11 Q Who do you believe during
12 the time that Ms. Scott was at BLS had
13 the lowest salary of the on-air
14 personalities?

15 MR. MORO: Objection to
16 form.

17 A I'm not sure. I'm not sure.

18 Q You're not sure who -- well,
19 let me ask you, are there a group of
20 people that one of which you believe has
21 the lowest salary?

22 MR. MORO: Objection to
23 form.

24 A We are talking about
25 contract employees that are on full-time,

1 P. Ferro

2 correct?

3 Q We are talking about on-air
4 non-syndicated personalities.

5 A Okay. So I would feel that
6 Bugsy, stage name Bugsy is right at the
7 ACTRA decided pay rate.

8 Q Anyone else?

9 A No.

10 Q Is Bugsy overnight?

11 A No. Bugsy, he does weekend
12 shows. He covers. He's -- he does
13 multiple roles not only on air.

14 Q So Bugsy does not have or
15 did not have at the time that Ms. Scott
16 was at BLS a regular weekday show;
17 correct?

18 A Correct.

19 Q Who among the on-air
20 non-syndicated personalities that had
21 regular weekday shows do you believe had
22 the lowest salary?

23 MR. MORO: Objection to
24 form.

25 A There's only two people.

1 P. Ferro

2 That would be Deja and Shaila and to my
3 knowledge, they were comparable.

4 MR. LICUL: Lisa, can you
5 read that back, please?

6 (The requested portion was
7 read back by the Court Reporter.)

8 Q Why do you say there would
9 only be two people?

10 A Because the morning show on
11 WBLS is syndicated and then there's the
12 10:00 to 3:00 show, which is the midday
13 show, so that's one. The next show is
14 the afternoon show, which is 3:00 to
15 7:00, so that's the second one and then
16 the night show, which is 7:00 to midnight
17 is syndicated. So there's only two
18 people that are -- that are full-time
19 employees.

20 Q And what about on Hot 97?

21 A Oh, Hot 97 is a totally
22 different animal. There's a direct
23 competitor, so we have to pay more to get
24 better talent. I mentioned Ebro and I
25 mentioned Flex. I would say that the

1 P. Ferro

2 midday show is the one -- the midday show
3 is traditionally the one that gets paid
4 the least, at least on Hot it has been.
5 It's the lesser of the shows if you will.

6 Q Now, Megan RYTE was the
7 midday host, correct, on Hot 97?

8 MR. MORO: Objection to
9 form.

10 A Yes. That is correct.

11 Q And how long did she have
12 that position?

13 A I hired her I want to say
14 April of 2015 and she recently exited to
15 pursue a TV career, TV, books and music
16 career a couple of months ago.

17 Q Did she leave voluntarily?

18 A Yes. She wanted to.

19 Q What was her salary?

20 A 110,000 a year.

21 Q Who did the afternoon show
22 on Hot 97 during the time that Ms. Scott
23 was there?

24 A Nessa On Air.

25 MR. MORO: Objection to form

1 P. Ferro

2 on that one.

3 Q What was her salary?

4 A After the cut, after the
5 COVID cut I'm not sure, but Nessa also
6 has a syndicated portion because she's
7 syndicated. Do you want me to talk about
8 syndicated pay?

9 Q When did she become
10 syndicated?

11 A She became syndicated 2017.

12 Q You said it's a portion,
13 meaning that a portion of her show is not
14 in syndicate, it's local?

15 A Oh, no, a portion of her
16 salary is paid for by the syndicator
17 which buys commercial time.

18 Q I see. So she's more in the
19 Steve Harvey, Lenny Green camp; correct?

20 A That is correct.

21 MR. MORO: Objection to
22 form.

23 Q Who had the night show on
24 Hot 97 during the time that Ms. Scott was
25 there?

1 P. Ferro

2 A Funk Flex.

3 MR. MORO: Objection to
4 form.

5 Q And the night show on BLS
6 was the syndicated Lenny Green show;
7 correct?

8 A Yes. That is correct.

9 Q And then the only other slot
10 left is the overnight; correct?

11 A Correct.

12 Q And that's not a prime time
13 slot; correct?

14 A No.

15 Q Who had the overnight slot
16 at BLS during Ms. Scott's tenure?

17 MR. MORO: Objection to
18 form.

19 A Dr. Bob Lee.

20 Q And how much was Dr. Lee's
21 salary?

22 A I don't know.

23 Q Well, even if you don't know
24 exactly, do you know approximately how
25 much he earned?

1 P. Ferro

2 A I would feel the ACTRA
3 minimum, but I'm not certain.

4 Q Do you mean at least the
5 minimum?

6 A Yes. That's what I mean.

7 Q But you don't know how much
8 above the minimum; correct?

9 A No.

10 MR. MORO: Objection to
11 form.

12 Q Meaning you don't know;
13 correct?

14 A I don't know.

15 Q Okay. Sorry, you shook your
16 head and I wasn't sure what your answer
17 was.

18 MR. MORO: Speak up a little
19 bit.

20 A Yeah, I don't know.

21 Q And who had the overnight
22 slot on Hot 97 during Ms. Scott's tenure?

23 A We -- I rotated hosts to try
24 to build the next batch of on-air, you
25 know, prime time on-air hosts, so the

1 P. Ferro

2 overnights is a training ground for the
3 next people that could perform in a more
4 daylight shift. So to answer your
5 question, there were several people, not
6 just one.

7 Q But nobody had that slot
8 full-time; correct?

9 A Nobody had that slot
10 full-time.

11 Q So to the best of your
12 recollection, Ebro had the highest salary
13 of the MediaCo non-syndicated on-air
14 employees; correct?

15 MR. MORO: Object to form.

16 A Again, he is syndicated.

17 Q Prior to his syndication?

18 A Yes.

19 Q And you believe that Flex
20 had the second highest salary; correct?

21 A Correct.

22 Q And then the three
23 non-syndicated women, Ms. Scott, Ms. Ryte
24 and Deja Vu had lower salaries; correct?

25 MR. MORO: Object to form.

1 P. Ferro

2 A Deja Vu is also syndicated,
3 so and she's been syndicated now for some
4 time. I don't know exactly when, but
5 she's also syndicated.

6 Q Was it before or after
7 Ms. Scott's departure that she was
8 syndicated?

9 A She's been syndicated for
10 quite some time and has a lot of
11 affiliates.

12 Q Do you recall approximately
13 when she became syndicated?

14 A I don't know.

15 Q Do you know if it was before
16 the pandemic?

17 A I do know that, yes.

18 Q Do you recall how long
19 before the pandemic?

20 A Five to ten years.

21 Q All right. And is she also
22 paid a salary by MediaCo?

23 A She is also paid a salary by
24 MediaCo.

25 Q We talked earlier about

1 P. Ferro

2 endorsements?

3 A Uh-huh.

4 Q How was the rate for
5 endorsements set?

6 A The rates for endorsements
7 are set on the basis of supply and demand
8 and there's a sheet that our sales
9 department uses for guidance and there in
10 that sheet is all the different types of
11 extra income you can earn and there's one
12 for each. You know, there's a set amount
13 for each host, which the host then agrees
14 to it and that's what they get. They
15 know when an endorsement is coming
16 they're going to get X amount of dollars.

17 Q And is the same true of
18 appearances, there's a set amount that's
19 separate for each on-air personality?

20 A Yes.

21 Q Let's discuss Ms. Scott.
22 When is the first time you met Ms. Scott?

23 A Shortly after I arrived at
24 the company when Emmis had it and they
25 introduced me to everybody individually

1 P. Ferro

2 and Shaila is one of the people I met.

3 Q And was she in the midday
4 time slot at the time?

5 A Yes.

6 Q And were you involved at all
7 in setting her pay?

8 A No.

9 Q At any point in time were
10 you involved -- withdrawn.

11 Did she have contracts that
12 were renewed every couple of years?

13 A Yes.

14 Q And were you involved at all
15 in deciding how much her compensation
16 would be during those negotiating periods
17 for the renewal?

18 MR. MORO: Objection to
19 form.

20 A Only post 2020. Only post
21 pandemic.

22 Q Who was involved prior to
23 that time?

24 A The -- it would have been
25 Charlie Morgan, it would have been Skip

1 P. Ferro

2 Dillard and Shaila's attorney, her
3 advocate.

4 Q Post 2020, who was involved
5 in setting Scott's compensation?

6 A Post 2020, we were -- we
7 guided our compensation as to what she
8 had been making and out of all on-air
9 people that took COVID cuts she refused,
10 so she was never -- we never had to make
11 up stock. It was always salary.

12 In 2021 she agreed to extend
13 her salary at the current amount because
14 she didn't take a cut and the company was
15 trying to bring everybody back and she
16 understood that and she said okay, I'll
17 do this for one more year.

18 MR. LICUL: Lisa, can you
19 just read back the question, please?

20 (The requested portion was
21 read back by the Court Reporter.)

22 Q Are you able to answer my
23 question?

24 A Yes, she was.

25 Q Anyone else?

1 P. Ferro

2 A No.

3 Q So she negotiated with
4 herself?

5 A She negotiated with her
6 agent.

7 Q And was there anyone on the
8 negotiation -- involved in negotiations
9 on the MediaCo side?

10 A There was no negotiations.
11 It's we presented her with what we had.

12 Q And who was involved in
13 deciding what you had?

14 A The executive team, the
15 people that do our budgets and know what
16 we have in the piggy bank.

17 Q Name each one of those
18 people for me.

19 A Brad Tobin.

20 Q Okay.

21 A At the very top level,
22 Rashon would have okayed the budget.

23 Q Anyone else?

24 A It's -- we are a small
25 company, so that would be it.

1 P. Ferro

2 Q Were you involved at all in
3 telling her what you had?

4 A Yes.

5 Q And how did you, Rashon and
6 Brad decide what you had to offer
7 Ms. Scott?

8 A Based on the budget that we
9 had for the year, that's how we do it.

10 Q Anything else?

11 A No.

12 Q And you would also look at
13 her prior salary; correct?

14 A Correct.

15 Q So even if you gave her a
16 raise, you couldn't give her too much of
17 a bump; correct?

18 MR. MORO: Objection to
19 form.

20 A At the -- I know you don't
21 want me to digress, but we offered her
22 what we had and that's what we had and
23 that's what she agreed to.

24 Q But my question is one of
25 the things you used to determine how much

1 P. Ferro

2 to offer her is what she had made in the
3 past; correct?

4 A Yes.

5 Q And so naturally you may be
6 able to offer her a little bit more;
7 correct?

8 MR. MORO: Objection to
9 form.

10 A We always try to do cost of
11 living adjustments, so a little more.

12 Q A little more, but you
13 couldn't double or triple her salary;
14 correct?

15 MR. MORO: Objection to
16 form.

17 A No.

18 Q Because that would be too
19 much of a bump up; correct?

20 MR. MORO: Objection to
21 form.

22 A Correct.

23 Q Now, when you determined how
24 much you had, was there a specific
25 budgeted amount for on-air talent?

1 P. Ferro

2 A Yes.

3 Q And who determined that
4 amount?

5 A Previous years, what we've
6 been paying. Post pandemic hardships
7 dictated some downward movement, but
8 that's it in a nutshell.

9 Q Mr. Ferro, my question was
10 who, person, who determined the amount,
11 the total budget for on-air
12 personalities?

13 A I would assume whoever
14 approves the budget, so that would be the
15 board of directors.

16 Q And who are those people?

17 A I don't know.

18 Q You believe that the board
19 of directors set the salaries for the
20 on-air talent?

21 MR. MORO: Objection to
22 form.

23 A No. I believe that the
24 board of director approved -- that the
25 board of directors approves a budget for

1 P. Ferro

2 the year.

3 Q And that budget would
4 include a fixed amount to pay on-air
5 personalities; correct?

6 A Yes.

7 Q All right. And then you,
8 Rashon and Brad determined how to divvy
9 up that pie; correct?

10 A No.

11 Q And who determined how to
12 divvy up that pie?

13 MR. MORO: Objection to
14 form.

15 A The pie had been divvied up
16 with what we had been paying.

17 Q So you figured out what you
18 had been paying in the past; correct?

19 A Correct.

20 Q And then did you just offer
21 the same amount or something else?

22 MR. MORO: Objection to
23 form.

24 A Post 2020?

25 Q Since you've been involved.

1 P. Ferro

2 A But it's been different
3 every time.

4 Q How has it been different
5 every time?

6 A Because in 2020 the company
7 almost had to close its doors.

8 Q So in 2020 there was a pot
9 of money available for on-air
10 personalities; correct?

11 A Correct.

12 Q And they were tough times;
13 correct?

14 A Yes, sir.

15 Q So how did you, Rashon and
16 Brad determine how much to give to each
17 on-air personality from that pie?

18 MR. MORO: Objection to
19 form.

20 A For the beginning part of
21 the pandemic, everybody's salary stayed
22 intact and as I mentioned previously,
23 there was a point that the company needed
24 to save some money to keep going, to keep
25 alive, to stay in business and almost all

1 P. Ferro

2 of us took a pay cut.

3 Q I'm not sure that you're
4 answering my question.

5 A I'm not sure I understand
6 it. I'm sorry.

7 Q Okay. Let's try it again,
8 okay. Let's start fresh.

9 A Okay.

10 Q You've been involved in
11 setting the pay for on-air personalities
12 since 2020; correct?

13 A No. That's not correct.

14 Q What's incorrect about that
15 statement?

16 A That we are basing current
17 pay on historicals and many of these
18 contracts were done way before I got
19 here. We haven't had a lot of turnover
20 in the on-air department.

21 Q Mr. Ferro, I asked you have
22 you been involved in setting pay for
23 on-air personalities since 2020?

24 A I'm not sure. Am I
25 involved, yes. Do I set the pay, no.

1 P. Ferro

2 It's historical.

3 Q So you have been involved in
4 setting pay since 2020; correct? You've
5 had some involvement; right?

6 MR. MORO: Objection to
7 form.

8 A I've had some involvement
9 and it's based on what the person has
10 made historically, yeah.

11 Q So if somebody got paid more
12 historically, they would continue to get
13 paid more; correct?

14 A That's correct, yes.

15 Q And if somebody got paid
16 less, they would continue to get paid
17 less; correct?

18 A Well, they would continue to
19 get paid more as the years went by making
20 less.

21 Q Right. So somebody like
22 Ebro who was historically paid more would
23 continue to be paid more than his on-air
24 colleagues; correct?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A Yes.

4 Q And Ms. Scott and Ms. -- and
5 Deja Vu who were historically paid less
6 than Ebro and Flex would continue to get
7 paid less than two men; correct?

8 MR. MORO: Objection to
9 form.

10 A You're bringing up gender.
11 Can you repeat that again and I'm not
12 sure I understand?

13 Q Which word of that question
14 did you not understand?

15 A The entire thing. Can you
16 repeat it again?

17 MR. LICUL: Lisa, can you
18 read that back, please?

19 (The requested portion was
20 read back by the Court Reporter.)

21 MR. MORO: Objection to
22 form.

23 A That question is so
24 difficult to answer because the two radio
25 stations couldn't be in more different

1 P. Ferro

2 spots and more different of competitive
3 situations and Ebro and Flex get paid
4 more because of what they bring to the
5 table in terms of audience, recognition,
6 in terms of who they're competing
7 against. They have a head to head
8 competitor.

9 BLS has -- even today
10 doesn't have a true head to head
11 competitor, so radio pays less to the
12 people that, A, are not in competition
13 and B, easily replaced. It would be very
14 hard for me to replace Ebro. It would be
15 very hard for me to replace Flex, so --

16 Q But you could more easily
17 replace Ms. Scott; correct?

18 MR. MORO: Note my objection
19 to form.

20 A There are shows in radio
21 that are easier to be replaced, yes and
22 the midday show is easier to be replaced.

23 Q And you could more easily
24 replace Deja Vu; correct?

25 MR. MORO: Note my objection

1 P. Ferro

2 to form again.

3 A Yes.

4 Q So you believe that it was
5 harder to replace the two men; correct?

6 MR. MORO: Objection to
7 form.

8 A No. I don't believe it's
9 harder to replace the two men. I believe
10 that it's harder to replace the two
11 people that are doing what they are doing
12 in the time slot that they're doing
13 against the competition that they're
14 against. If Ebro was identified as a
15 female, he would still get the same
16 amount of money because it's the same
17 competition. It's just different -- it's
18 apples to oranges.

19 Q I just want to go back and I
20 want you to listen to my question
21 carefully. I know you're answering how
22 you'd like. Just answer my question,
23 okay.

24 You testified earlier that
25 one of the bases for setting pay was how

1 P. Ferro

2 much the on-air personality earned
3 historically; correct?

4 A Yes.

5 Q And historically Ebro you
6 believe was the highest paid; correct?

7 MR. MORO: Objection to
8 form.

9 A Yes.

10 Q And historically you believe
11 Flex was the second highest paid?

12 A Yes.

13 MR. MORO: Objection to
14 form.

15 Q And historically you believe
16 that Ms. Scott and Deja Vu were paid less
17 than Ebro and Flex in salary; correct?

18 MR. MORO: Objection to
19 form.

20 A Yes.

21 Q So when each of their
22 contracts came up for renewal, Ebro and
23 Flex would continue to be paid a higher
24 salary than Ms. Scott and Deja Vu;
25 correct?

1 P. Ferro

2 MR. MORO: Objection to
3 form.

4 A Yes. Correct.

5 Q And does the same hold true
6 for ratings bonuses?

7 MR. MORO: Objection to
8 form.

9 A Ratings bonuses are --
10 they're on par from memory. It's not
11 substantially different.

12 Q Were all of the on-air
13 personalities paid the same ratings
14 bonus? In other words, if they reached
15 the number 1 rating they would get paid a
16 fixed amount, if they reached the number
17 2 rating they would get paid a fixed
18 amount?

19 MR. MORO: Object to form.

20 A No.

21 Q Were the criteria for
22 earning those bonuses different for each
23 of the on-air personalities?

24 A Yes.

25 Q Do you recall what Ebro's

1 P. Ferro

2 threshold was for earning a rating -- for
3 earning a ratings bonus?

4 A No.

5 Q Do you recall whether he
6 would earn a ratings bonus if he was
7 ranked as low as number 4?

8 MR. MORO: Objection to
9 form.

10 A No. I believe he had a
11 ratings based -- ratings point based
12 bonus structure and that's not tied to
13 rank.

14 Q I see. And do you recall
15 how much his ratings bonus would be if he
16 hit that metric?

17 MR. MORO: Objection to
18 form.

19 A Not off the top of my head.
20 I'd have to go and see the numbers.

21 Q What about Flex, what type
22 of ratings bonus metrics were tied to --
23 withdrawn.

24 What metrics were tied to
25 Flex earning a ratings bonus?

1 P. Ferro

2 MR. MORO: Objection to

3 form.

4 A From memory, a rank based --
5 pardon me, not ranked based. Ratings
6 based as well, so hit a certain ratings
7 threshold.

8 Q Meaning .3, .4; correct?

9 A Correct.

10 Q And the higher the rating
11 the higher the bonus; correct?

12 A With a limit, yes.

13 Q With a limit, with a cap?

14 A Yes.

15 Q What about Ms. Scott, what
16 were her metrics for earning a ratings
17 bonus?

18 MR. MORO: Objection to

19 form.

20 A I believe that she
21 negotiated a different metric for ratings
22 bonus and these ratings bonus thresholds
23 are negotiated at contract time and I
24 believe that Shaila had a share rank.

25 Q Do you recall how much she

1 P. Ferro

2 would get if she hit her share rank?

3 MR. MORO: Objection to
4 form.

5 A No.

6 Q Do you recall how much Ebro
7 would get if he hit his metric?

8 MR. MORO: Objection to
9 form.

10 A No.

11 Q What about Flex, do you
12 recall how much he would get if he hit
13 his metric?

14 MR. MORO: Same objection.

15 A No.

16 Q Did Deja Vu have a metric to
17 hit in order to get a ratings bonus?

18 MR. MORO: Objection to
19 form.

20 A Yes.

21 Q Do you remember what her
22 metric was?

23 A No.

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 Q Do you remember how much she
3 would earn if she hit her metric?

4 MR. MORO: Objection to
5 form.

6 A No.

7 Q Do you know if Ebro would
8 earn more if he hit his metric than if
9 Ms. Scott or Deja Vu hit their metrics?

10 MR. MORO: Objection to
11 form.

12 A I don't know. I would have
13 to go and look at the paperwork.

14 Q Do you believe that he
15 earned more if he hit his metric versus
16 Ms. Scott and Deja Vu hitting their
17 respective metrics?

18 MR. MORO: Objection to
19 form.

20 A Yes.

21 Q Do you believe that Flex
22 earned more if he hit his metrics versus
23 Ms. Scott and Deja Vu hitting their
24 respective metric?

25 MR. MORO: Objection again.

1 P. Ferro

2 A I believe they would be on
3 par.

4 Q On par with who?

5 A You said Flex and Shaila.

6 Q That's fair. You're not
7 saying it was on par with Ebro?

8 A No, with Shaila.

9 Q How many times were you
10 involved in, since 2020, in negotiating a
11 renewal of Shaila's contract?

12 A Once.

13 Q When was that?

14 A 2021.

15 Q 2021, okay. And who else?
16 Was Brad also involved?

17 A Yes.

18 Q And was Rashon also
19 involved?

20 A No. I believe Brad and I
21 were the ones that were handling that.

22 Q And who were you and Brad
23 negotiating with on Ms. Scott's side?

24 A We had the numbers and from
25 memory, I'm remembering now Cynthia would

1 P. Ferro

2 have been involved as well. So Cynthia
3 would have been the one that presented
4 the numbers to Shaila and then Shaila
5 would have been -- Shaila would have
6 agreed to Cynthia, which she would have
7 brought that information back to us.

8 Q And you and Brad decided
9 what to offer Ms. Scott; correct?

10 MR. MORO: Objection to
11 form.

12 A Correct.

13 Q And do you recall what your
14 offer was to Ms. Scott?

15 A Yes.

16 Q What was it?

17 A To remain flat from the
18 previous year.

19 Q Do you recall what that
20 number was?

21 A 153,000.

22 Q So if Ms. Scott had been
23 earning approximate 300,000, then you
24 would have offered to keep her flat for
25 the next period?

1 P. Ferro

2 MR. MORO: Objection to

3 form.

4 A I think that had she been
5 making that much money, we would have
6 really needed her to work with us because
7 we would have needed to work with her
8 because just the midday show doesn't --
9 it just -- it just doesn't pay as much.
10 So that number tied to that show is hard
11 for me to even comprehend, but had she
12 been making that, that's what we would
13 have offered.

14 Q And do you recall what the
15 bonus structure was that you offered her?

16 A No.

17 Q Do you recall whether it was
18 flat from her prior contract?

19 A It would have been flat from
20 her prior contract.

21 Q And do you recall how long
22 you offered to renew her contract?

23 A We wanted to renew her
24 contract for three years and she wanted
25 just a one year extension.

1 P. Ferro

2 Q How do you know that?

3 A Because the initial offer
4 was for what we call a two plus one,
5 which is standard. It's two years plus
6 one option to renew and Shaila just
7 wanted one year.

8 Q And did you speak to her
9 about why she wanted one year?

10 A No.

11 Q Did you learn from anyone
12 why she wanted one year?

13 A I was told by Cynthia that
14 that's what she wanted, but I don't
15 recall the why.

16 Q Did you ask?

17 A No.

18 Q Were you curious?

19 A I'm curious for everything,
20 so I'm sure I would have been curious for
21 that, sure.

22 Q But you don't recall
23 learning why she asked for one year;
24 correct?

25 A Correct.

1 P. Ferro

2 Q Did you find it unusual that
3 she would ask for one year?

4 A It's not usual for people to
5 not want the security of a longer
6 contract, yes.

7 Q Did she, when you offered
8 her a flat salary of 153, did she ask for
9 more?

10 MR. MORO: Objection to
11 form.

12 A I believe that she wanted
13 more. She wanted a little more.

14 Q Do you know how much more
15 she wanted, how much -- withdrawn.

16 Do you know how much more
17 she wanted?

18 A (Witness nodding)

19 Q No?

20 A No.

21 Can you still hear because
22 you are lagging a little bit on our end?

23 Q Sure. I do hear you. Let
24 me do it again.

25 Do you recall how much more

1 P. Ferro

2 she wanted?

3 A No.

4 Q Did you give her the little
5 more that she asked for?

6 MR. MORO: Objection to
7 form.

8 A No.

9 Q Why not?

10 A Because the priority for the
11 company at that moment was to bring as
12 many people back from pre-COVID cuts and
13 since she hadn't taken a cut, the company
14 felt that she was at the level where
15 everybody else who had negotiated their
16 salary was at.

17 Q Now, did Ebro take a cut?

18 A Yes.

19 Q Did Flex take a cut?

20 A Yes.

21 Q Were they still earning a
22 higher salary than Ms. Scott even with
23 their cuts?

24 A Yes.

25 Q Substantially higher;

1 P. Ferro

2 correct?

3 MR. MORO: Objection to
4 form.

5 A Higher, yes.

6 Q Substantially higher; right?

7 MR. MORO: Objection to
8 form.

9 A It depends on what the
10 definition of substantial is, but they
11 were definitely higher.

12 Q She was earning 153; right?

13 A Correct.

14 Q And what were they earning?
15 What was Ebro earning?

16 MR. MORO: Objection to
17 form.

18 A At the time I want to say in
19 the mid 200's, maybe 3.

20 Q So 100 to \$150,000 more than
21 Ms. Scott?

22 A And for the market, probably
23 undervalued seriously.

24 Q Are you going to tell him
25 that he's undervalued the next time you

1 P. Ferro

2 negotiate with him?

3 MR. MORO: Objection to
4 form.

5 A He knows it. He knows it.

6 Q So he was making twice as
7 much as she was; correct?

8 A I'm not sure he was making 3
9 at the time, but it's very possible, yes.

10 Q It's possible and twice as
11 much you would agree is substantially
12 more; correct?

13 MR. MORO: Objection to
14 form.

15 A It's significantly more.

16 Q What's the difference
17 between substantially and significantly?

18 A It different words. I think
19 it means the same thing.

20 Q What about Flex, what was
21 his salary at the time?

22 MR. MORO: Objection to
23 form.

24 A Also in the 300,000 range.

25 Q So he, too, was making, to

1 P. Ferro

2 use your words, significantly more than
3 Ms. Scott; correct?

4 MR. MORO: Objection to
5 form.

6 A Substantially, yeah.

7 Q You said potentially?

8 A Substantially.

9 Q Substantially, sorry.

10 MR. MORO: You got my
11 objection there?

12 MR. LICUL: You should just
13 have a standing objection to every
14 single question. I suggest you do
15 that.

16 Q So Ebro and Flex took a 15
17 percent pay cut post COVID, MediaCo
18 awarded them stock; correct?

19 A I don't recall the exact
20 amounts of pay cut. I remember 15 being
21 a number, Brad can confirm, but, yes,
22 MediaCo, to be good to its employees,
23 offered to make up the cut with equity.

24 Q Right. They took a pay cut
25 and were awarded equity to make up for

1 P. Ferro

2 that pay cut; correct?

3 A Correct.

4 Q Ms. Scott was never awarded
5 any; correct?

6 A She never took a pay cut, so
7 she was not awarded any.

8 Q Turning to the time that you
9 were negotiating -- well, withdrawn.

10 When you presented Ms. Scott
11 with the renewal for three years at a
12 flat rate of 153, did you also negotiate
13 with her terms concerning her separation?

14 A Cynthia was the person who
15 would have had the discussion with her,
16 so I can't speak to that. Cynthia was
17 aware of what we had and I just wasn't
18 privy to that conversation. Cynthia's
19 program director.

20 Q But you were involved in
21 negotiating Ms. Scott's renewal in 2021;
22 correct?

23 MR. MORO: Objection to
24 form.

25 A Correct.

1 P. Ferro

2 Q You testified to that
3 earlier; right?

4 A And I said correct.

5 Q And that was true when you
6 testified to that; correct?

7 A Yes.

8 Q As part of those
9 negotiations, did MediaCo insert a term
10 into Ms. Scott's contract permitting it
11 to terminate her employment at any time
12 without cause?

13 A I don't believe so. Without
14 cause, no.

15 Q Without cause.

16 A I don't believe so.

17 Q Would you find that unusual
18 if that was in the proposal?

19 A Yes, although I have seen
20 contracts that are with cause and without
21 cause.

22 Q But for MediaCo that would
23 be unusual; correct?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A I was just getting to know
3 MediaCo in 2020, so I don't know what was
4 unusual or what was usual for them.

5 Q What about for Emmis?

6 A For Emmis it would have been
7 unusual.

8 Q And so if there was an offer
9 to employ Ms. Scott for three years but
10 she could be terminated at any time, that
11 would not, in fact, provide her with job
12 security; correct?

13 MR. MORO: Objection to
14 form.

15 A It would provide her with
16 whatever was on the contract, whatever we
17 would have agreed to.

18 Q Would you consider that job
19 security if she could be terminated at
20 any time without cause?

21 A Yes.

22 Q Why do you consider that job
23 security?

24 A I'm sorry, I meant to say I
25 consider it's not job security.

1 P. Ferro

2 Q Because no matter the length
3 of the contract, she had no guarantee
4 that she would be able to work through
5 the end of the term; correct?

6 MR. MORO: Objection to
7 form.

8 A Correct. That's what a
9 contract is.

10 Q Right.

11 A Yeah.

12 Q And we know that because you
13 litigated your contract where your
14 employer tried to give you a pay cut;
15 correct?

16 MR. MORO: Objection to
17 form.

18 A Correct.

19 Q Do you recall whether there
20 was also a provision placed in the
21 contract during the negotiations that
22 would have required Ms. Scott to sign a
23 release in order to get her severance?

24 A No. I -- I don't get into
25 the language of the contracts.

1 P. Ferro

2 Q All right.

3 MR. MORO: Since you have a
4 pause, Valdi, we are coming up on
5 2:30.

6 MR. LICUL: Okay. We can
7 take 10 minutes. That's fine.

8 MR. MORO: Now is fine?

9 MR. LICUL: Yes. That's
10 fine. Thank you.

11 (Time noted: 2:27 p.m.

12 (A short recess was taken.)

13 (Time noted: 2:41 p.m.)

14 Q Mr. Ferro, do you know how
15 much revenue WBLS generates for MediaCo?

16 A Approximately \$20,000,000 a
17 year.

18 Q And how much revenue does
19 Hot 97 generate for MediaCo?

20 A About the same.

21 Q And how long has that been
22 the case?

23 A I'm not sure how long it's
24 been the case. They have always been
25 comparable. I know those are the current

1 P. Ferro

2 figures and of course --

3 Q Do -- sorry.

4 A No. I was just going to say
5 they used to generate a lot more.

6 Q Which station used to
7 generate a lot more?

8 A I want to say that Hot 97 at
9 one point was in the 30's.

10 Q And BLS?

11 A BLS was in the high 20's.

12 Q Do you recall that there was
13 a time when BLS generated less revenue
14 annually than Hot 97?

15 A Not that I can recall.
16 That's not my -- I was nosey and I peeked
17 at numbers recently, but --

18 Q What did you peek at?

19 A Like radio has a ratings
20 report. There's a report called Miller
21 Kaplan.

22 Q What's it called?

23 A Miller Kaplan.

24 Q And what does that show?

25 A It shows revenues compared

1 P. Ferro

2 to the market.

3 Q Oh, for stations, each
4 station?

5 A For our stations.

6 Q For your stations, right.
7 And would it also show revenue by time
8 slot?

9 A No.

10 Q Where would I look to get
11 this information?

12 A Probably ask Brad or
13 somebody in sales if there's a way to
14 break that out.

15 Q Have you ever seen it broken
16 out?

17 A No.

18 Q Did there come a time when
19 MediaCo did something called a music test
20 for BLS?

21 A Yes.

22 Q What is a music test?

23 A There's two types of music
24 tests that we do for WBLS. Let me
25 explain what both of those are so you

1 P. Ferro

2 know.

3 Q Okay.

4 A One is a test that we
5 receive data on twice a month and that's
6 more for the newer music that we do play.
7 So we do play a handful of newer titles
8 and really what that test shows us is if
9 there's a song that's out there that's
10 newer that we've missed, usually we use
11 that to help, you know, to bring it in
12 because the audience is saying we really
13 like this song.

14 So we get those tests about
15 two times a month roughly and I say
16 roughly because like during the
17 Christmas, you know, during the holiday
18 period, Christmas, New Years, Hanukkah,
19 we don't get information. We don't do
20 those tests.

21 The second music test that
22 we do is a more comprehensive library
23 test. So this is we test everything that
24 we play. We select -- well, we don't
25 select. We use a third-party company

1 P. Ferro

2 that, you know, they know what they're
3 doing. They select participants
4 depending on radio usage and the
5 likelihood that they would use the radio
6 station and they get paid to literally
7 listen to little clips of music and it's
8 usually 700 of those songs versus the
9 bimonthly test, it's like 30 songs that
10 they have to listen to and people don't
11 get paid. You know, the third-party
12 company asks them to participate.

13 Q And is the music test a tool
14 used to determine what songs should be
15 played on a station?

16 A Yes.

17 Q Is it used for anything
18 else?

19 A The music test?

20 Q Yes.

21 A Sometimes we will ask
22 perceptual questions with the knowledge
23 that the deck is stacked in our favor.
24 It's kind of like asking your mom if she
25 thinks you're handsome, right, because we

1 P. Ferro

2 are talking just to the people that would
3 listen to WBLS, that would just listen
4 to, you know, the type of music played on
5 WBLS.

6 Q And you would ask them about
7 the music that's played on the station?

8 A Sometimes perceptual
9 questions asked on music tests are more
10 kicking the tires questions, the morning
11 show that your friends are talking about,
12 the station that you see advertised on
13 billboards and things like that to kind
14 of get a feel if we are missing something
15 to discover.

16 Q Let's turn to Jusnik. When
17 did you first learn of Jusnik?

18 A 2011.

19 Q How did you learn of her?

20 A My mentor said that she was
21 one of the absolute best people that he
22 had ever worked with.

23 Q Who was your mentor? Who
24 was your mentor?

25 A He's passed. His name was

1 P. Ferro

2 Bill Tanner.

3 Q And did Bill Tanner work
4 with Jusnik?

5 A Yes.

6 Q Where did he work with her?

7 A At SummitMedia or Summit
8 Broadcasting. I'm not sure of the exact
9 name of the company, Summit.

10 Q Do you know what Jusnik did
11 for Summit?

12 A Yes. She started off as on
13 air, then eventually became the program
14 director of that radio station and kept
15 being off the air and had a good run in
16 terms of performance.

17 Q Where was the station?

18 A Birmingham, Alabama.

19 Q Is Birmingham, Alabama the
20 same size of geographic area as -- well,
21 withdrawn.

22 What is considered the
23 number one market for radio in the
24 country?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A In terms of revenue or in
4 terms of population?

5 Q Let's start with revenue.

6 A Los Angeles.

7 Q And what about New York?

8 A It's number one in terms of
9 population.

10 Q And what about in revenue?

11 A It's second.

12 Q And where does Birmingham
13 sit on the revenue and population list?

14 A I don't know. In terms of
15 revenue, I don't know and I haven't
16 looked at where they are in population.
17 I'm sorry.

18 Q You would agree that it's
19 much smaller than New York and Los
20 Angeles; correct?

21 A Yes.

22 Q What kind of station did
23 Mr. Tanner work with Jusnik at?

24 A It was an R&B station like
25 WBLS is, which is adult urban

1 P. Ferro

2 contemporary.

3 Q How old is Jusnik?

4 A 40's.

5 Q 40's?

6 A I'm guessing. I don't know
7 her age.

8 Q All right. What makes you
9 believe she's in her 40's?

10 A It's an estimate to answer
11 your question.

12 Q And so that's when you first
13 heard of Jusnik. Did there come a time
14 when you considered hiring Jusnik?

15 A Yes.

16 Q When was that?

17 A Actually when I first got to
18 Emmis, to Hot 97 in 2015.

19 Q Did you talk to anyone at
20 that time about hiring Jusnik?

21 A Yes.

22 Q Who did you talk to?

23 A To Bill, to Bill Tanner.

24 Q Tell me what the two of you
25 said to each other.

1 P. Ferro

2 A Oh, boy. Obviously I can't
3 remember the exact words, but I would
4 have said I'm interested in speaking to
5 Nicole to come to New York to work here.

6 Q And what did Bill say to
7 you?

8 MR. MORO: Objection to
9 form.

10 A He was -- at first he
11 thought it was a good idea and then he
12 quickly changed his mind and said no.

13 Q And what did he say to you
14 when he thought it was a good idea?

15 A That it would be a good move
16 for her. Nobody better type of
17 endorsement.

18 Q And what did he say when he
19 changed his mind?

20 A She's under contract. You
21 know you're tortiously interfering and
22 stop it.

23 Q How did you respond?

24 A This man was like a father
25 to me, so I stopped it.

1 P. Ferro

2 Q Did you speak to -- well,
3 withdrawn.

4 Do you recall anything else
5 about that conversation between you and
6 Bill regarding Jusnik?

7 A Not -- not that I recall,
8 no.

9 Q Did you speak to anyone else
10 at that time about hiring Jusnik?

11 A The then market manager.

12 Q Who was that?

13 A Deon Levingston.

14 Q What did you and Deon
15 Levingston say about potentially hiring
16 Jusnik?

17 A When I came to Hot 97, the
18 midday show was vacant. There was
19 nobody. It was my first duty was to fill
20 it and Nicole came to mind obviously and
21 then we put, you know, we put an ad out
22 when she wasn't available, so does that
23 answer your question?

24 Q My question was what did you
25 and the marketing manager say to each

1 P. Ferro

2 other about hiring Jusnik?

3 A The market manager.

4 Q Market manager, sorry.

5 A I said I have a good
6 candidate. He said okay.

7 Q Anything else you recall
8 about that conversation?

9 A No.

10 Q And at the time you wanted
11 her, meaning Jusnik, to fill the midday
12 slot on Hot 97, correct, because that
13 slot was open?

14 A Correct.

15 Q Who had left?

16 A Oh, my goodness, give me a
17 second. His name is on the top of my
18 tongue. I'll get you -- I'll get you the
19 name as soon as I remember. I can't
20 recall.

21 Q Do you know if he left
22 voluntarily?

23 A Yes.

24 Q Now, just to be clear, in
25 2015 you did not speak to Jusnik about

1 P. Ferro

2 coming over to what was then Emmis;

3 correct?

4 A I did speak to Jusnik.

5 Q You did, okay. Tell me what

6 the two of you said to each other.

7 A I told her that -- I

8 reintroduced myself to her. I recalled

9 saying that Bill had given the thumbs up

10 for us to speak, she expressed interest

11 and shortly after I got the notification

12 from Bill saying to, in his words, dude,

13 stop it.

14 Q So you had two conversations

15 with Jusnik at that time; correct?

16 A That I recall, yeah.

17 Q Do you recall anything else

18 that was said during the first

19 conversation before Bill changed his

20 mind?

21 A No. It was positive. It

22 was, you know, it's an offer to come to

23 radio here in New York, you know.

24 Q No. My question is do you

25 remember what was said? I'm not asking

1 P. Ferro

2 you how you felt. I'm not asking you to
3 muse about what you thought. I'm asking
4 you do you recall what was said between
5 the two of you?

6 MR. MORO: Objection to
7 form.

8 A No.

9 Q Do you recall what was said
10 between you and Jusnik during the second
11 conversation after Bill changed his mind?

12 MR. MORO: Object to form.

13 A We did not speak after Bill
14 changed his mind.

15 Q So you just had the one
16 conversation; correct?

17 A That I recall.

18 Q You said you reintroduced
19 yourself to Jusnik, meaning you had met
20 her before; correct?

21 A Via telephone through
22 Tanner.

23 Q Through what?

24 A Through Bill Tanner.

25 Q Through Bill, okay.

1 P. Ferro

2 And was that after you had
3 raised the idea of hiring her with Bill?

4 A No. Bill thought she was
5 really great and Bill and I worked in
6 many markets, so Bill and I were very
7 close. He talked to me about her, I
8 never met her and one day he says let's
9 get her on the phone, let's say hi to her
10 and this would have been a couple of
11 years before 2015, 2010, '11.

12 Q Do you remember anything
13 else that was said during that telephone
14 conversation?

15 A No, not specifically.

16 Q After 2015, did you keep in
17 touch with Jusnik?

18 A No.

19 Q When was the next time you
20 had contact with her?

21 A Sometime late 2020.

22 Q And what were the
23 circumstances with you coming into
24 contact with her again?

25 A I wanted to do for WBLS what

1 P. Ferro

2 I had done for Hot 97, which was attract
3 the best people I could to do the job
4 that was being requested, which was on
5 video, on social media, Instagram,
6 Twitter, Facebook and she came to mind.

7 Q Were you recruiting her
8 again to come to BLS?

9 A I reached out to her via
10 social media to touch base, to make sure
11 she remembered who I was and --

12 Q How were you touching base?

13 A Calling a good person in the
14 industry. You want to surround yourself
15 with the best people as possible.

16 Q Any other reason why you
17 were touching base?

18 A No.

19 Q Were you considering hiring
20 her at the time?

21 A I was not considering hiring
22 her when I reached out.

23 Q And did you guys speak in
24 2020?

25 A Yes, we did.

1 P. Ferro

2 Q Tell me what the two of you
3 said to each other during that
4 conversation.

5 A Hello, how have you been?
6 Good. Family? Good. How's work? Good.
7 Break the ice, reconnect type of
8 conversation. There wasn't anything
9 specific.

10 Q Is there anything else you
11 can recall about that conversation?

12 A I mean you don't want me to
13 say it, but it was pleasant. It was a
14 nice conversation.

15 Q Is there anything else you
16 can recall about what the two of you said
17 to each other during that conversation?

18 A No.

19 Q When's the next time you had
20 contact with Jusnik?

21 A Early 2021.

22 Q And who reached out to who?

23 A I must have reached out to
24 her.

25 Q Why?

1 P. Ferro

2 A Excellent track record,
3 great person in the business, programming
4 mind, excellent on air. At this point I
5 knew that BLS had to do better and I was
6 thinking that this person might really be
7 good for BLS.

8 Q So when you reached out to
9 her in early 2021, you did that with the
10 intention to recruit her; correct?

11 MR. MORO: Objection to
12 form.

13 A Yes.

14 Q Prior to you reaching out to
15 her in early 2021, did you discuss with
16 anyone at MediaCo recruiting Jusnik?

17 A Not specifically.

18 Q Did you do so generally?

19 A Yes.

20 Q Who did you speak to?

21 A Brad.

22 Q What did you and Brad say to
23 each other?

24 A We were catching up on our
25 weekly one on one, which is the official

1 P. Ferro

2 meeting that we have on a weekly basis
3 and I said that I had reconnected with
4 somebody that I thought was really good,
5 somebody that had been trained by the
6 person that trained me, somebody that I
7 thought would be valuable at some point
8 and I mentioned her name. He -- I
9 remember he looked at her social media
10 and his response was wow, she's really
11 good on social media. I said yeah. I
12 said that's one of the things that I'm
13 thinking because a big drive for the
14 company is social media and Insta --

15 Q Anything else you recall you
16 and Brad saying to each other?

17 MR. MORO: Did you finish?

18 THE WITNESS: I was just
19 saying social media, Instagram,
20 Twitter and the social media
21 platforms. That's it.

22 Q Anything else you and
23 Brad -- you recall you and Brad saying to
24 each other at that time about Jusnik?

25 A No.

1 P. Ferro

2 Q What did you and Jusnik say
3 to each other when you connected with her
4 in early 2021?

5 A I wanted to know if she was
6 available this time and if something were
7 to come up for Hot 97 or WBLS, would she
8 be available and I generally asked her
9 where she was in her contract and if she
10 was able to speak.

11 Q What was her response?

12 A That she would be soon, but
13 not yet.

14 Q What else did the two of you
15 say to each other?

16 A Pleasantries and we hung up.

17 Q At the time that you reached
18 out to her in early 2021, was there an
19 opening for an on-air personality at
20 either BLS or Hot 97?

21 A No.

22 Q If Jusnik accepted at that
23 time and was able to accept, how would
24 you have made room for her?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A I couldn't have made her an
4 offer at that point because I didn't have
5 any sort of budget approved or anything
6 other than gauging her desire to uproot
7 and come to New York.

8 Q By the way, your
9 communications with Jusnik over time
10 occurred by telephone; correct?

11 A Except the initial one which
12 was through social media because I didn't
13 have a number for her, so I asked her for
14 her number.

15 Q Did you ever e-mail her?

16 A I don't believe so, no, not
17 at this time.

18 Q Did you ever text with her?

19 A Maybe text like are you
20 available for a quick call so, yes.

21 Q Do you still have those
22 texts?

23 A I do not. I don't keep my
24 personal texts for more than 30 days.

25 Q What do you do with them

1 P. Ferro

2 after 30 days?

3 A They delete and there's a
4 reason why if you're interested in
5 knowing.

6 Q Sure.

7 A Emmis and MediaCo allow its
8 employees to have other businesses and
9 mine is voiceover work and one of my
10 biggest voiceover clients likes to
11 receive the voice files through iMessage
12 and if I keep the text for too long, it
13 won't send.

14 Q On what date did Jusnik
15 agree to come work for MediaCo?

16 A I can't tell you a specific
17 date. I just don't remember a specific
18 date.

19 Q Do you remember about when
20 that was?

21 A Early summer of '22, late
22 spring of '22.

23 Q Late spring, early summer of
24 2022?

25 A I'm guessing, yes.

1 P. Ferro

2 Q And after that period of
3 time, early spring, late summer, did you
4 continue to delete your text messages
5 after 30 days?

6 A I don't personally delete
7 them. It's a function on the iPhone that
8 does it automatically.

9 Q Did you disable that
10 function?

11 A No.

12 Q Did you ever text with
13 anyone about Ms. Scott --

14 A No, never.

15 Q -- about terminating her
16 employment?

17 A Never.

18 Q Do you recall during the
19 period prior to the time that Ms. -- that
20 Jusnik accepted employment with MediaCo,
21 were you texting with her?

22 MR. MORO: Objection to
23 form.

24 A I do recall texting
25 regarding is everything okay, have you

1 P. Ferro

2 figured out, have you connected with your
3 family here in New York, are you good,
4 that type of conversation.

5 Q Did you do anything to try
6 to recover those texts?

7 A No.

8 Q Were you ever asked to?

9 MR. MORO: Just to the
10 extent that you -- just before you
11 answer, be careful not to disclose
12 any conversations between me and you,
13 please.

14 THE WITNESS: Yeah.

15 MR. MORO: Do you want to
16 read back the question?

17 Q The question is were you
18 ever asked to search your texts, search
19 your texts with Jusnik?

20 A I don't recall.

21 Q Did you ever text with
22 anyone about Jusnik?

23 A No.

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 Q Did you ever text with Brad
3 about hiring Jusnik?

4 MR. MORO: Objection to
5 form.

6 A Brad prefers to have our
7 communication in person.

8 Q Is that so you don't leave a
9 trail?

10 MR. MORO: Objection to
11 form.

12 A He says a lot of things get
13 lost in transition.

14 Q Did you ever text with him
15 about hiring Jusnik?

16 MR. MORO: Objection to
17 form.

18 A No. I would have gone and
19 spoken to him.

20 Q Did you ever text with him
21 about firing Shaila Scott?

22 A No. I wouldn't have done
23 that.

24 Q Did you ever text with
25 anyone about hiring Jusnik?

1 P. Ferro

2 A No.

3 Q Did you ever e-mail Brad
4 about hiring Jusnik?

5 A I don't recall specifics
6 other than an introduction and Nik has an
7 attorney and what I did was or a
8 representative, attorney, agent,
9 representative and I would have connected
10 Brad to this person and that would have
11 been -- the introduction must have been
12 through e-mail.

13 Q And who is that person?

14 A I don't remember his name.

15 Q Did you ever text or e-mail
16 with that person?

17 A No.

18 Q Do you know if Brad did?

19 MR. MORO: Objection to
20 form.

21 A I don't know.

22 Q When you met with Brad, did
23 you ever take notes?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A No.

3 Q Did anyone?

4 A No.

5 Q We were at early 2021 when
6 you connected with Jusnik I guess a
7 second or a third time. When was the
8 next conversation you had with her?

9 A I'm trying to remember. I'm
10 trying to remember. Now I'm thinking it
11 might have been '22.

12 Q What might have been '22?

13 A Our conversation and here's
14 why I'm thinking. Just because of this
15 whole work from home and remote,
16 sometimes the dates just get bumbled.
17 I'm trying to connect where I was at the
18 time and everything is -- a lot of it is
19 home, you know.

20 So when Nik and I connected
21 was late '21 and when we reconnected was
22 early '22. Is that okay for me to revise
23 that?

24 Q No. I want your --

25 A I'm going off memory and I

1 P. Ferro

2 apologize if, you know --

3 Q The conversation you
4 testified about taking place in early
5 2021, when did that conversation take
6 place?

7 MR. MORO: Objection to
8 form.

9 A Early '22 it would have
10 been.

11 Q And you said you also
12 connected with her in late 2021; correct?

13 A Late 2021 going into '22,
14 correct.

15 Q And you've testified about
16 the conversation in early 2022; correct?

17 A Correct. Yes.

18 Q What was the conversation
19 you had with her in late 2021?

20 A It was a reconnection
21 because we hadn't spoken in a long time.
22 I reached out to her the only way I knew
23 which was social media. She gave me a
24 phone number and I called her.

25 Q What did the two of you say

1 P. Ferro

2 to each other?

3 A Pleasantries, checking in,
4 it's been a long time, how's it going,
5 that type of conversation. I wanted to
6 make sure that she remembered who I was
7 and I wanted to make sure that I had the
8 right person because it had been some
9 time.

10 Q And did you at that time in
11 the conversation late 2021 consider
12 recruiting her to come to MediaCo?

13 A No.

14 Q So the first time -- well,
15 actually, other than 2015, the next time
16 you tried to recruit her was in early
17 2022; correct?

18 A The next time that I spoke
19 with her regarding a possible opportunity
20 and to see if she was available would
21 have been in 2022, yes.

22 Q And in early 2022, did you
23 have a slot available for her at either
24 Hot 97 or BLS?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A No. I did not.

4 Q And if she had accepted your
5 offer, did you know who would be removed
6 to make room for Jusnik?

7 MR. MORO: Objection to
8 form.

9 A I didn't -- I didn't make an
10 offer. I didn't have money. An offer
11 requires a position and money. I didn't
12 have either. I was checking interest and
13 availability.

14 Q And if she said yes --
15 withdrawn.

16 After your conversation in
17 early 2022 with Jusnik, did you speak
18 with anyone at MediaCo about that
19 conversation?

20 A I'm sure I mentioned it to
21 Brad.

22 Q What did you say to Brad?

23 A That there was interest and
24 availability at some point when she was
25 able as per her contract to have these

1 P. Ferro

2 types of conversations.

3 Q Did Jusnik tell you when her
4 contract would run out?

5 A She didn't give me specifics
6 that I -- that I recall.

7 Q Did she give you an
8 approximate date?

9 A She said she was about to be
10 able to have conversations.

11 Q Meaning in early 2022 she
12 told you she was about to be able to have
13 conversations; correct?

14 A Correct.

15 Q And so you understood from
16 that that she was about to be available
17 to be recruited; correct?

18 MR. MORO: Object to form.

19 A Yes.

20 Q And did you tell Brad that?

21 A Yes.

22 Q What did he say to you?

23 A He was excited in his Brad
24 way, which is not very excited, but he
25 was, you know, he was -- you know, he

1 P. Ferro

2 asked me is this the same person that you
3 brought up before and I said yes. He
4 said well, good, we have to keep, you
5 know, just keep an eye on her.

6 Q What else did you and Brad
7 say to each other about recruiting Jusnik
8 in early 2022?

9 A That was -- that was the
10 center of the conversation, the beginning
11 and end. We didn't elaborate. There
12 wasn't much to elaborate on.

13 Q Now, just so I understand
14 it, at that time you had not -- you did
15 not have an open slot at either BLS or
16 Hot 97; correct?

17 MR. MORO: Object to form.

18 A Correct. I did not.

19 Q And you didn't know, you had
20 no information that any one of the
21 current roster of on-air personalities
22 was leaving; correct?

23 MR. MORO: Objection to
24 form.

25 A Correct.

1 P. Ferro

2 Q So if you recruited Jusnik,
3 you would have to get rid of someone;
4 correct?

5 MR. MORO: Objection to
6 form.

7 A Or somehow make room.

8 Q How would you do that?

9 A Shortening current air time.
10 There's -- it's not un-standard practice
11 instead of the typical 6:00 to 10:00,
12 10:00 to 3:00, 3:00 to 7:00, 7:00 to
13 midnight to have a 6:00 to 10:00, 10:00
14 to 2:00, 2:00 to 6:00, 6:00 to 10:00,
15 10:00 to 2:00 a.m.

16 Q Did you discuss doing that
17 with anyone?

18 MR. MORO: Objection to
19 form.

20 A I might have had this
21 conversation with Brad as I'm explaining
22 to you now.

23 Q And what did he say?

24 A Brad was very -- he was very
25 calm about it. He said great, let's keep

1 P. Ferro

2 our eye on her.

3 Q So was there ever any
4 realistic discussion of shortening time
5 slots?

6 MR. MORO: Objection to
7 form.

8 A Not that I recall.

9 Q So you understood that if
10 you were to recruit Jusnik you would have
11 to get rid of someone to make room for
12 her; correct?

13 MR. MORO: Objection to
14 form.

15 A Yes.

16 Q You said that Brad was
17 excited when you told him about Jusnik.
18 What did he say that led you to believe
19 he was excited?

20 A Ever since the first
21 conversation that I had with Brad,
22 digital social media, creating content
23 was very -- it was the highest thing on
24 his priority list. He was excited
25 because he had seen Nicole's Instagram.

1 P. Ferro

2 He had seen what she does when she was on
3 the air, which is called Instagram Live,
4 you know, where you go live or you record
5 a video and put it to your stories and he
6 felt that this would be somebody
7 beneficial to have at WBLS.

8 Q How does WBLS generate
9 revenue?

10 MR. MORO: Objection to
11 form.

12 A We -- we generate revenue
13 via commercial, the selling of
14 commercials. We have events such as
15 Circle of Sisters. We do promotions and
16 appearances where the host gets paid, but
17 so does the radio station and that's how
18 we currently do it.

19 The desire is to follow more
20 of a Hot 97 model, which we also monetize
21 the YouTube channel. We monetize -- we
22 can generate extra revenue by having
23 clients be on our host's stories and
24 social media. Matter of fact, a law firm
25 e-mailed last week asking for Ebro to

1 P. Ferro

2 follow them, just follow them, not post,
3 just follow and so that, you know,
4 that's --

5 Q What's the primary method of
6 generating revenue at either MediaCo
7 or -- excuse me, at either BLS or Hot 97?

8 MR. MORO: Objection to
9 form.

10 A Commercial sales.

11 Q And how much, what
12 percentage of revenue do commercial sales
13 represent?

14 MR. MORO: Objection to
15 form.

16 A I'd be guesstimating, 70
17 percent.

18 Q Could it be more?

19 A It could be more or less.
20 Sales could answer that.

21 Q Isn't it likely more?

22 MR. MORO: Objection to
23 form.

24 A I don't know.

25 Q All right. So after you and

1 P. Ferro

2 Brad had this conversation where he is
3 excited about Jusnik, did you speak to
4 Jusnik again?

5 A No, not after that
6 conversation. Not after that
7 conversation. It was I was just
8 reporting back to Brad, catching up in
9 our one on one and then --

10 Q Well --

11 A -- some --

12 Q Go ahead, I'm sorry.

13 A Oh, I was just going to say
14 some time must have gone by until I
15 reached her again.

16 Q And when did you reach her
17 again?

18 A Oh, May of '22.

19 Q Do you recall when in May?

20 A I don't.

21 MR. MORO: Objection to
22 form.

23 Q How did you reach out to
24 her?

25 A Via telephone call to see if

1 P. Ferro

2 she was still -- if she still expressed
3 interest. If she still had interest.
4 Sorry.

5 Q And so between the
6 conversation with excited Brad and May
7 2022, you didn't have any conversations
8 about hiring -- about hiring Jusnik?

9 A Not that I recall.

10 Q Tell me what you and Jusnik
11 said to each other during this May 2022
12 conversation.

13 MR. MORO: Objection to
14 form.

15 A I must have said something
16 along the lines of we have an opportunity
17 now if you are available to have these
18 conversations now and you're able to
19 proceed, let me know who your attorney
20 slash agent slash representative is so I
21 can connect that person with Brad.

22 Q And what did she say?

23 MR. MORO: Note my objection
24 to form.

25 A She was excited.

1 P. Ferro

2 Q What did she say?

3 A She said yes.

4 Q Did the two of you say
5 anything else to each other at that time?

6 A I can't recall exactly. I'm
7 sure it was pleasantries.

8 Q Do you recall anything
9 else --

10 A You got --

11 Q I am sorry?

12 A You got mad at me for saying
13 that earlier.

14 Q Do you recall anything else
15 that the two of you said to each other
16 during that May conversation?

17 A Not that I can recall.

18 Q Do you recall when in May
19 you had this conversation with Jusnik?

20 MR. MORO: Objection to
21 form.

22 A I don't. The only reason
23 why I can remember it was in May, it was
24 because it was around Summer Jam season,
25 which is the big concert that Hot 97 has

1 P. Ferro

2 yearly and there's a lot going on and
3 it's very memorable. Whatever happens
4 outside of Summer Jam kind of sticks, so
5 mid May.

6 Q You said to Jusnik during
7 this conversation that you had the
8 opportunity now and you were asking her
9 to discuss her being hired by MediaCo.
10 What was the opportunity that came up in
11 May of 2022?

12 MR. MORO: Can you read that
13 back for me, please?

14 MR. LICUL: Sorry, Chris,
15 let me do it again.

16 MR. MORO: Sure.

17 Q What was the opportunity
18 that caused you to reach out to Jusnik
19 and discuss her being hired by MediaCo?

20 MR. MORO: Objection to
21 form.

22 A I knew that I wanted to
23 place her in afternoon drive, the 3:00 to
24 7:00 time slot. I knew in my heart of
25 hearts that the component that she

1 P. Ferro

2 brought from social media would be
3 beneficial. I had heard her on the air.
4 I knew what she sounded like. I knew
5 what she could even grow to sound like
6 with me coaching her. She is a New York
7 native, so she knows her way around very
8 well and that's -- that was -- that was
9 what was in my mind.

10 Q But why did you have the
11 opportunity in May of 2022 and not have
12 the opportunity in early 2022?

13 MR. MORO: Objection to
14 form.

15 A Because by May it was clear
16 to me that the company's initiative to
17 have somebody that could really perform
18 well in social media and digital was at a
19 point where I couldn't -- I needed to do
20 something about it in my position and the
21 person that I thought would be perfect
22 for this was her.

23 Q Where were you going to fit
24 her?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A In the afternoon show. I
4 always thought about her for the
5 afternoon show.

6 Q But when you spoke to her in
7 May of 2022, you said you now had the
8 opportunity. That suggested that a slot
9 opened up; correct?

10 MR. MORO: Objection to
11 form.

12 A Correct.

13 Q What slot opened up?

14 A I was -- I was going to open
15 up the afternoon drive slot. I was going
16 to do that.

17 Q Who was in that slot?

18 A Deja.

19 Q Were you going to fire Deja?

20 MR. MORO: Objection to
21 form.

22 A No.

23 Q So how were you going to
24 make that slot available?

25 A I was -- it was going -- we

1 P. Ferro

2 were going to make a decision
3 collectively between Deja and Shaila as
4 to who stayed in the midday show.

5 Q So by the time you spoke to
6 Jusnik in May of 2022, you had already
7 decided that you were going to fire
8 either Shaila or Deja; correct?

9 MR. MORO: Objection to
10 form.

11 A That the company was going
12 to make that move and that's the move I
13 suggested, yes.

14 Q All right. You recommended
15 that MediaCo fire either Shaila or Deja
16 to make room for Jusnik; correct?

17 MR. MORO: Objection to
18 form.

19 A I based my decision on a
20 very substantial research study that we
21 had recently done, a perceptual study of
22 the market and it showed that Deja was
23 the more familiar of between Deja and
24 Shaila, so my recommendation was to move
25 Shaila out, to bring Deja in to the

1 P. Ferro

2 midday show and hire Jusnik.

3 Q And your recommendation was
4 to fire Shaila to make room for Jusnik;
5 correct?

6 MR. MORO: Objection to
7 form.

8 A No. The recommendation was
9 we had not renewed Shaila's contract.

10 Q So you were terminating her
11 employment by not renewing her contract;
12 correct?

13 A Correct.

14 Q In order to make room for
15 Jusnik; correct?

16 MR. MORO: Objection to
17 form.

18 A Correct.

19 Q And you would then slide
20 Deja into Shaila's midday slot; correct?

21 A Yes.

22 Q And then plug Jusnik into
23 Deja's slot; correct?

24 A Into the afternoon drive
25 slot, yes.

1 P. Ferro

2 Q The afternoon drive slot,
3 which was Deja's slot; correct?

4 A Yes, it was.

5 Q Now, Shaila is older than
6 Jusnik; correct?

7 MR. MORO: Objection to
8 form.

9 A I believe so, yes.

10 Q And you also know that Deja,
11 excuse me, that Jusnik is older -- excuse
12 me. Withdrawn.

13 And you also know that Deja
14 is older than Jusnik; correct?

15 MR. MORO: Objection to
16 form.

17 A Yes.

18 Q And Shaila is older than
19 Deja; correct?

20 MR. MORO: Objection to
21 form.

22 A I thought they were around
23 the same age. I don't know their exact
24 ages.

25 Q But you believed that Shaila

1 P. Ferro

2 was older than Deja; correct?

3 MR. MORO: Objection to
4 form.

5 A If I think about it, I
6 believe they are on par as to age.

7 Q But you believed that, in
8 fact, Shaila was older than Deja;
9 correct?

10 MR. MORO: Same objection.

11 A If I had to put my thought
12 process to it right now at this moment, I
13 would say maybe by a few years, yeah.

14 Q After you had this
15 conversation in May of 2022 with Jusnik,
16 did you have any subsequent conversations
17 with her about hiring her?

18 A The conversations went
19 through her representative and all
20 negotiations were done through him and
21 just for ethical reasons, I did not reach
22 her directly for her not to feel like I
23 was doing anything wrong by not going
24 through her representative.

25 Q So you didn't have contact

1 P. Ferro

2 with her or her representative after that
3 May 2022 conversation; correct?

4 MR. MORO: Objection to
5 form.

6 A Not that I recall.

7 Q Did you have any
8 conversations with anyone at MediaCo
9 after the May 2022 conversation about
10 hiring Jusnik?

11 MR. MORO: Objection to
12 form.

13 A Brad would update me on the
14 progress on -- on how it was coming
15 along, the conversations with her person
16 and at one point the direction that Brad
17 gave me was we might need to find
18 somebody else to do the afternoon show
19 because they hadn't come to any sort of
20 agreement.

21 Q Do you know what the
22 stumbling block was?

23 A I believe it was money.

24 Q Is that what Brad told you?

25 A That was the conversation,

1 P. Ferro

2 yes.

3 Q Do you know how much Brad
4 offered Deja?

5 MR. MORO: Objection to
6 form.

7 A Deja?

8 Q Sorry. Withdrawn.

9 Do you know how much Brad
10 offered Jusnik?

11 A I want to say 150,000.

12 Q Did Brad say anything else
13 to you when he told you that you may have
14 to find someone else for the afternoon
15 slot?

16 A I don't recall specifics.
17 It was -- the conversation was if we
18 cannot work a deal with Nicole, we are
19 going to need to find somebody that can
20 do afternoons, that sounds good on air,
21 but primarily that does digital really
22 well.

23 Q So you didn't care if they
24 were actually a good on-air personality,
25 so long as they did digital really well?

1 P. Ferro

2 MR. MORO: Objection to

3 form.

4 A I personally care how the
5 on-air sound goes, of course. That's why
6 the box marked was sounded good on air,
7 but digital was the big priority. BLS,
8 the music is really the star. The person
9 that's on is -- it's an accompaniment.

10 Q Did you think Ebro was an
11 accompaniment?

12 A Oh, no, absolutely not.

13 Q What about Flex, was he an
14 accompaniment?

15 A No. Absolutely not.

16 Q But Shaila Scott was an
17 accompaniment; correct?

18 A Yes.

19 Q And Deja Vu was an
20 accompaniment; correct?

21 A Yes.

22 Q And ultimately Jusnik is an
23 accompaniment?

24 A Yes.

25 Q Are there any other women

1 P. Ferro

2 who you consider accompaniments?

3 MR. MORO: Objection to
4 form.

5 A Any slot that exists between
6 10:00 a.m. and 7:00 p.m., it's mostly
7 music and it just so happens that we have
8 women in those slots. It's not by design
9 or by thought. It's just -- it just so
10 happens that they're really good spots.

11 Q So Nessa is an
12 accompaniment; correct?

13 A Yeah. Yes.

14 Q Yes?

15 A Yes.

16 Q Megan RYTE is an
17 accompaniment; correct?

18 A Yes.

19 Q And so the people who you
20 don't consider accompaniments are Steve
21 Harvey; correct?

22 MR. MORO: Objection to
23 form.

24 A Well, Steve Harvey's show --

25 Q Right.

1 P. Ferro

2 A -- right.

3 Q So he's not an
4 accompaniment?

5 MR. MORO: Objection to
6 form.

7 A The show is not an
8 accompaniment.

9 Q And Lenny's not an
10 accompaniment; correct?

11 MR. MORO: Objection to
12 form.

13 A He is. The reality is that
14 Lenny's -- the difference between an
15 accompaniment and a true ratings driver
16 is people will sit through music that
17 they don't particularly like to hear what
18 Ebro and his team have to say about
19 topics versus during the day when people
20 expect music, it's brand expectation.

21 You know, you expect to hear
22 music, so the host is there to let you
23 know what's coming up, let you know the
24 announcements, sound good, be friendly,
25 be your friends, but it's your next door

1 P. Ferro

2 neighbor that you see and you wave to.
3 It's not the family friend that comes to
4 dinner.

5 Steve Harvey and his crew,
6 Ebro and his crew, his team, it's mostly
7 content, spoken word content, so that's
8 why they're not an accompaniment. You
9 tune in. If you like what they're
10 saying, you stay and if you don't like
11 what they're saying, you go somewhere
12 else versus after really 9:00 a.m. it
13 becomes music based because it's the
14 music that people have on in the
15 background as they're working and doing
16 things.

17 I share that with you so you
18 understand when I'm saying accompaniment,
19 I'm not trying to degrade what they do.
20 You still need to sound good. You still
21 need to perform. You still need to, you
22 know, play the commercials on time and
23 follow the guidance of the program
24 director, but people tune in for music
25 outside of morning shows.

1 P. Ferro

2 My wife hates the music on
3 Z100, but she tunes in to Elvis every
4 once in a while. I know it's terrible,
5 but --

6 Q Is there any particular
7 reason why the on-air personalities that
8 you consider not to be accompaniments are
9 all men?

10 MR. MORO: Objection to
11 form.

12 A I mean that's -- that's just
13 not true. It's just Ebro happens to be
14 the host of a show and his co-host is a
15 woman.

16 Q So it's just a coincidence?

17 MR. MORO: Objection to
18 form.

19 A No. It just so happens that
20 she's his co-host and Steve has a co-host
21 that's a female.

22 Q How much does Ebro's co-host
23 get paid?

24 A I don't know off the top of
25 my head. I would have to look.

1 P. Ferro

2 Q Is it more or less than
3 Ebro's salary?

4 A It's less.

5 MR. MORO: Objection to
6 form.

7 A I would think it's less than
8 Ebro's salary.

9 Q You know it's less than
10 Ebro's salary; right?

11 A Yeah. Ebro's the one that's
12 harder to replace, therefore he's the one
13 that gets paid the most.

14 Q You said Flex also has a
15 female co-host?

16 A No.

17 MR. MORO: Objection to
18 form.

19 Q I'm sorry, I misunderstood
20 that.

21 A No, no, not Flex. Steve
22 Harvey does.

23 Q Steve Harvey does, all
24 right.

25 A By the way, there's

1 P. Ferro

2 excellent female lead morning shows that
3 are syndicated. One of my favorites is
4 DeDe in the Morning. I think she's
5 spectacular. There's Dana Cortez.
6 There's plenty. They're either not
7 available or not really New York sounding
8 for this market.

9 Q Sorry, we were talking about
10 your conversation with Brad where he said
11 you might have to find someone else for
12 the afternoon slot because the
13 negotiations --

14 A Right.

15 Q -- with Jusnik may not come
16 to fruition. Do you recall that?

17 A Yes. I do recall that.

18 Q Who did you have in mind, if
19 anyone, to put in that slot if Jusnik was
20 not hired?

21 A There's a gentleman by the
22 name of Alex Chisholm that does the
23 afternoon drive show in the urban AC in
24 Miami and I thought he might be a
25 candidate.

1 P. Ferro

2 Q Anyone else?

3 A I reached out to friends of
4 mine in other companies and asked hey, is
5 there anybody, you know, that might be
6 looking for work. I wasn't specific.
7 Obviously I didn't say that it was for
8 BLS, but since they know that I have a
9 lot of contacts in the industry, somebody
10 recommended a gentleman by the name -- he
11 goes by Hurricane and but that was it.
12 It wasn't a long list.

13 Q How old do you believe Alex
14 Chisholm is?

15 MR. MORO: Note my objection
16 to form.

17 A Probably five years older
18 than me, 55.

19 Q How old do you believe
20 Hurricane is?

21 A 60, maybe early 60's.

22 Q Did you ever reach -- did
23 you say you reached out to Alex Chisholm?

24 A No, I didn't because if I
25 reach out, it's -- you know, because of

1 P. Ferro

2 my position it could start rumors and
3 whatnot and it was just a list that I had
4 of people that I would have called.

5 Q What did you do with the
6 list?

7 A Oh, it was up here in my
8 head.

9 Q So you never wrote it down?

10 A Oh, no.

11 MR. MORO: Objection to
12 form.

13 Q You don't have any written
14 proof of this list; correct?

15 MR. MORO: Note my objection
16 to form.

17 A I reached out to Alex just
18 to make sure that I had his number
19 correct because we hadn't connected in
20 five or six years.

21 And Hurricane was trying out
22 at a station that a friend of mine is
23 program director of and she got him in
24 the room and we had a friendly
25 conversation, pleasant conversation.

1 P. Ferro

2 Q What was the conversation
3 you had with Chisholm when you reached
4 out?

5 A He's a person that I've
6 known for years, so it was probably very
7 relaxed. Hey, bud, is this still your
8 number type of thing, how's it going,
9 that type of communication.

10 Q Did you say anything to him
11 about potentially having a spot for him?

12 A Ut-uh.

13 Q No?

14 A No. Ut-uh.

15 MR. LICUL: Lisa, did you
16 get that?

17 MS. REPORTER: Yes.

18 Q What did you say to
19 Hurricane when you reached out to him?

20 A I thought he was really
21 funny. He's a very funny and charismatic
22 person, however ironically enough the
23 reason why my program director friend
24 couldn't hire him is because he didn't
25 pass -- this company you must pass a

1 P. Ferro

2 digital test to be hired and I remember
3 her being upset that she couldn't bring
4 him on air.

5 Q What's the company?

6 A Townsquare Media.

7 Q What's that?

8 A Townsquare Media.

9 Q Townsquare Media?

10 A Uh-huh.

11 Q And you said that they had a
12 digital test for employment?

13 A Yes.

14 MR. MORO: Objection to
15 form.

16 Q What's that test?

17 A They're a digital first
18 company. They design websites and
19 publicly known by their CEO 50 percent of
20 their revenue comes from digital, which
21 is enviable obviously and if you were
22 going to hire somebody to be on air, you
23 must also be able to produce digital
24 content. That is a requirement in every
25 single market they are in.

1 P. Ferro

2 Q Are they a radio station?

3 Do they own radio stations?

4 A They are the largest small
5 market broadcaster in the nation.

6 MR. MORO: Objection to
7 form.

8 Q Do they actually have radio
9 stations that broadcast over the air?

10 A Yes.

11 Q Do you have the address for
12 Townsquare?

13 A Their corporate offices are
14 here in New York. I can Google it. I'm
15 sure that one of us can Google it and
16 send it to you.

17 Q And who is the Townsquare
18 person that you were speaking to?

19 A Her name is Mary Kay and
20 that's her stage name. I'm not sure what
21 her real name is because it's a stage
22 name and she's the program director of
23 the Block, which is a hip hop station and
24 WTUG, which is an urban adult
25 contemporary station, which is where

1 P. Ferro

2 Hurricane was applying to.

3 MR. MORO: Do you want a
4 break?

5 MR. LICUL: Yes. Let's take
6 a 10 minute break. At 3:55 we can
7 come back.

8 MR. MORO: 3:55 you said?

9 MR. LICUL: Yes.

10 (Time noted: 2:44 p.m.)

11 (A short recess was taken.)

12 (Time noted: 4:00 p.m.)

13 Q Mr. Ferro, were you ever
14 involved --

15 A I just wanted to correct
16 something. There was a period of time
17 where Nicole had to move from Alabama to
18 New York and I'm going off memory and I'm
19 going off, you know, the Summer Jam
20 period which takes six to eight months to
21 execute. I was off on my dates because
22 when she got here it was to start in
23 June, so the conversations, I must have
24 been off by a month, I apologize and I
25 just wanted to share that.

1 P. Ferro

2 Q What date was off by a
3 month?

4 A The negotiation with Nicole,
5 the conversations with her agent. I
6 was -- I thought it was deeper into the
7 springtime and it was earlier.

8 Q It was earlier?

9 A Correct.

10 Q So the conversations you
11 described with Jusnik were earlier than
12 May of 2022; correct?

13 A Yes. I just wanted to make
14 sure you guys knew that. I looked at her
15 contract just to see and realized that.
16 I didn't want to throw anybody off.

17 Q When did you look at her
18 contract?

19 A Just a few minutes ago.
20 Just you were bringing up so much
21 contract conversation that I just wanted
22 to refresh.

23 Q And what in her contract
24 reminded you that the conversation
25 occurred earlier than 2022?

1 P. Ferro

2 A There was a gap between the
3 time that she agreed to come and be the
4 afternoon drive host to the time that she
5 actually made it because she had to pick
6 up her belongings and move and that takes
7 anywhere, you know, three to six weeks
8 depending.

9 Q When did she begin to agree
10 to become the afternoon drive host?

11 MR. MORO: Did you have
12 anything to add there, Pio?

13 THE WITNESS: I believe I'm
14 good.

15 MR. MORO: Okay.

16 Q When did she agree to become
17 the afternoon drive host?

18 A I'd have to -- may I look at
19 the contract again?

20 Q Well, just go by memory. Do
21 you remember when she agreed?

22 A Late April --

23 Q Late April?

24 A -- is my question.

25 Q Would that have been before

1 P. Ferro

2 she executed the contract?

3 A It would be around the time
4 that she executed the contract.

5 Q And then once she executed
6 the contract, you knew she was going to
7 come on as the afternoon drive host;
8 correct?

9 A Yes. Correct.

10 MR. MORO: Objection to
11 form.

12 Q But there was going to be a
13 gap between the time that she executed
14 the contract and the time she would
15 actually start; correct?

16 A Correct.

17 Q And who filled that gap?

18 A For which show?

19 Q For the afternoon drive.

20 A Deja stayed on.

21 Q And once you learned that --
22 withdrawn.

23 Once you secured Jusnik
24 coming onboard, you then moved ahead with
25 terminating Ms. Scott; correct?

1 P. Ferro

2 MR. MORO: Objection to

3 form.

4 A I don't remember exactly
5 when we had the conversation with Shaila
6 to let her know that we weren't renewing
7 her contract. I recall where I was and I
8 recall who was on the call, on the Zoom.

9 Q When you told her that?

10 A Yes.

11 Q But my question is a bit
12 different. Once you learned that you had
13 secured Jusnik to come onboard at BLS,
14 you then moved forward with terminating
15 Ms. Scott's employment; correct?

16 MR. MORO: Objection to

17 form.

18 A From my recollection, we
19 were going to not renew Shaila
20 regardless. We were going to move Deja
21 into the midday slot and I was tasked to
22 get somebody that could perform really
23 well on social media and digital to do
24 the afternoon show for WBLS.

25 Q So you never said to anyone,

1 P. Ferro

2 you know, now that we have Jusnik onboard
3 we can move forward with terminating
4 Ms. Scott; correct?

5 MR. MORO: Objection to
6 form.

7 A I -- the decision to
8 terminate Shaila was -- it was just based
9 on the findings from the research study,
10 us putting the best person in that
11 position and us trying to go and secure a
12 person for afternoons.

13 Q Let me ask the question
14 again. Please listen carefully and try
15 to answer it, okay.

16 So you never said to anyone,
17 in sum and substance, that you can now
18 move forward with terminating Ms. Scott
19 because you secured Jusnik to be hired?

20 MR. MORO: Objection to
21 form.

22 A I never said that.

23 Q Did you ever communicate
24 that to anyone?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A No.

4 Q That's not something you
5 would say, right, because the two were
6 not connected; correct?

7 MR. MORO: Objection to
8 form.

9 A When you say the two, you
10 mean?

11 Q Ms. Scott's termination and
12 Jusnik's hiring.

13 A Ms. -- yeah. Shaila's
14 termination was not connected to us
15 bringing Nik in or anybody else.

16 Q So you wouldn't say to
17 someone hey, now that we've secured
18 Jusnik, let's go ahead and fire Shaila
19 Scott; correct?

20 MR. MORO: Objection to
21 form.

22 Q That's not something you
23 would say?

24 A It's not something I would
25 say.

1 P. Ferro

2 Q Let's talk about Ebro.

3 A Okay.

4 Q Were you involved in any of
5 his contract negotiations?

6 A Yes.

7 Q How many of them?

8 A Two, plus the communication
9 of compensation reduction due to COVID.

10 Q When was the first one you
11 were involved in?

12 A From my recollection, 2017,
13 at some point in 2017.

14 Q Who else was involved on the
15 Emmis end at the time?

16 A It would have been Charlie
17 Morgan, our then market manager, market
18 president. I'm not sure if Beth Ellis
19 was with us at the time. I know that
20 Beth and I did a lot of legal speak, but
21 I'm not sure. There was an attorney
22 before Beth. I'm so terrible with names
23 sometimes. Scott? No. Maybe it was
24 Scott. So Emmis legal counsel, just for
25 the sake of moving forward.

1 P. Ferro

2 Q Anyone else other than Emmis
3 legal counsel?

4 A No.

5 Q And who was negotiating on
6 the Ebro side? Was it Ebro, a
7 representative or some combination of the
8 two?

9 A Ebro negotiated for himself.

10 Q What year was this, by the
11 way?

12 A 2017.

13 Q You did say that. I'm
14 sorry.

15 A It's okay.

16 Q And tell me, did Emmis make
17 an offer to Ebro at the time for a
18 renewal?

19 A Yes.

20 Q Do you remember what that
21 offer was in terms of salary?

22 A No.

23 Q Do you remember, was it more
24 than \$200,000?

25 A Yes.

1 P. Ferro

2 Q And was there a negotiation
3 going back and forth between Emmis and
4 Ebro about what the final salary number
5 would be?

6 A Yes.

7 Q Did Ebro ask for more?

8 A Yes.

9 Q Do you recall how much more
10 he asked for?

11 A I can't recall an exact
12 figure.

13 Q Do you recall the magnitude
14 of what his additional ask was?

15 A He said that he should be
16 getting paid \$1,000,000 a year.

17 Q Did he actually ask for
18 \$1,000,000 a year?

19 A In my office he said you
20 should be paying me \$1,000,000 a year and
21 you know it.

22 Q How did you respond to him?

23 A I said that I thought he was
24 right.

25 Q Did you pay him \$1,000,000 a

1 P. Ferro

2 year?

3 A No. No, I didn't.

4 Q And when he said \$1,000,000,
5 do you understand that to mean total
6 comp?

7 MR. MORO: Objection to
8 form.

9 A Yeah. I would hope so. I
10 didn't entertain the conversation, you
11 know.

12 Q Right. My question was
13 different once again. Did you understand
14 that when he said that you should be
15 paying him a million dollars a year that
16 he was talking about total comp,
17 including all of its components?

18 A Yes.

19 Q You didn't understand him to
20 be asking for a salary of \$1,000,000;
21 correct?

22 MR. MORO: Objection to
23 form.

24 A I understood that he was
25 asking for \$1,000,000 and I would hope

1 P. Ferro

2 that it was all included. I don't know
3 what was in his head.

4 Q What did you understand it
5 to mean?

6 A That he wanted \$1,000,000 to
7 do his job and he felt like he should get
8 it.

9 Q And did you understand for
10 him to be asking for that number in
11 total, including salary, bonuses,
12 appearance fees, endorsements and
13 whatever other pieces are involved?

14 MR. MORO: Objection to
15 form.

16 A Yes.

17 Q Did you, when Ebro asked for
18 more money, did Emmis give him more
19 money?

20 A We gave him a bump in pay
21 from contract to contract.

22 Q So in 2017 you made him an
23 offer. You can't remember what that
24 offer was; correct?

25 A Not specifically, I cannot

1 P. Ferro

2 remember what the offer was.

3 Q He then said to you you
4 should be paying me \$1,000,000; correct?

5 A Correct.

6 Q And you said you agreed, but
7 you ultimately did not pay him
8 \$1,000,000; correct?

9 A Correct.

10 Q But you paid him more than
11 the initial offer; correct?

12 MR. MORO: Objection to
13 form.

14 A I can't remember what the
15 numbers were, but we did pay him more.

16 Q Was it substantially more
17 than the initial offer?

18 MR. MORO: Objection to
19 form.

20 A I can't remember the exact
21 figures, but I know it wasn't something
22 like \$50,000 a year more. It was more
23 along the lines of 30 something thousand
24 dollars a year.

25 Q And when you say that,

1 P. Ferro

2 you're talking about salary?

3 A Yes.

4 MR. MORO: Objection to
5 form.

6 Q And then did you recall
7 negotiating with Ebro the ratings
8 bonuses, the metrics to reach the rating
9 bonuses?

10 A We didn't negotiate that.

11 Q You did not?

12 A No. I did not.

13 Q And do you recall
14 negotiating with Ebro the amount he would
15 get for endorsements and appearances?

16 A No. I did not.

17 Q Other than salary, ratings
18 bonuses and appearance/endorsement fees,
19 did Ebro get any other additional money
20 from Emmis in 2017?

21 MR. MORO: Objection to
22 form.

23 Q Well, for the contract
24 beginning in 2017.

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A Part of the contract was
4 tied to Summer Jam revenue. I am not
5 sure we hit that number in 2017, so I'm
6 not sure.

7 Q Did you hit it at any point
8 after 2017?

9 A No.

10 Q But there was something
11 built into his contract that would pay
12 him a bonus for reaching a certain metric
13 with Summer Jam; correct?

14 A Correct.

15 Q Now, the other event that
16 you mentioned earlier was something
17 called Circle of Sisters. Do you recall
18 that?

19 A Yes.

20 Q Was Ms. Scott involved in
21 that?

22 A It's required from the air
23 staff to show up day of, say hi, you
24 know, be kind to the audience, take
25 pictures. To say hi, be kind, be nice,

1 P. Ferro

2 you know.

3 Q So her involvement -- your
4 testimony is that her involvement in
5 Circle of Sisters was to be kind, be
6 nice, show up and take pictures; correct?

7 MR. MORO: Note my objection
8 to form.

9 A I believe she hosted a panel
10 once and I want to say from memory that
11 she did that with her daughter, so it was
12 moderating a panel.

13 Q Did she have any other
14 involvement in Circle of Sisters?

15 A Not to my recollection,
16 other than that.

17 Q Did MediaCo or Emmis pay her
18 anything extra for working on Circle of
19 Sisters?

20 MR. MORO: Objection to
21 form.

22 A No.

23 Q Did she have any kind of
24 bonus attached to her work on Circle of
25 Sisters?

1 P. Ferro

2 MR. MORO: Objection to form
3 again.

4 A There's nothing to attach a
5 bonus to. It's a station event.

6 Q Is Summer Jam a station
7 event?

8 A It's so much more than that.
9 It's so much more.

10 Q You're talking about Hot 97
11 Summer Jam; right?

12 MR. MORO: You broke up,
13 Valdi.

14 MR. LICUL: Sorry.

15 MR. MORO: Can I have that
16 read back?

17 Q It's Hot 97 Summer Jam;
18 correct?

19 A That is correct.

20 Q It's a station event;
21 correct?

22 MR. MORO: Objection to
23 form.

24 A It is a station event.

25 Q Did you consider Ms. Scott

1 P. Ferro

2 to be just an accompaniment to the Circle
3 of Sisters event?

4 MR. MORO: Objection to
5 form.

6 A Yes.

7 Q Did you consider Ebro to be
8 just an accompaniment to Summer Jam?

9 MR. MORO: Objection to
10 form.

11 A Day of, yes.

12 Q What about before that?

13 A He put it together.

14 Q Who else was involved in
15 putting it together?

16 A It takes a lot of people to
17 put an event of that magnitude together.
18 So he was the lead in negotiating with
19 talent, but what I mean by that is
20 artists and the record labels and
21 management. He was instrumental through
22 his relationships in connecting the dots,
23 making sure that, you know, that the
24 artists said yes and that is very time
25 consuming. It's a lot of late night

1 P. Ferro

2 calls because artists don't operate 9:00
3 to 5:00. They operate at 3:00 and 4:00
4 a.m. and Ebro gets up to do the morning
5 show at 5:00 a.m., so it was pretty hard
6 on him and we are talking about an event
7 that day of we were there for 16 hours.

8 It's a massive undertaking
9 that he quarterbacked and he was the
10 quarterback when I got here.

11 Q How many other people were
12 involved in putting together Summer Jam,
13 just a number?

14 A Oh, my goodness, it's all
15 hands on deck, so everybody had a
16 function at some level or another, plus
17 we had -- we have an outside company that
18 helps us with stage, lighting, sound,
19 negotiations for the revenue, itself, you
20 know.

21 Q Just so I'm clear, so
22 everyone --

23 MR. MORO: Were you done?

24 Q -- to some extent?

25 MR. MORO: I just want to

1 P. Ferro

2 make sure he was done. Did you have
3 anything to add?

4 A I was just going to say that
5 this event was done at MetLife Stadium,
6 which is where the New York Giants and
7 the New York Jets play football and just
8 the sheer size, coordination, just the
9 sheer amount of star power on that stage,
10 coordinating the surprise appearances, it
11 was -- I mean it's -- it's an event that
12 takes -- literally next year's Summer Jam
13 starts the day that this year's Summer
14 Jam ends. I mean we always joke, but
15 it's true. I've made phone calls to
16 record labels, you know, for next year's
17 Summer Jam, you know, ahead of this
18 year's Summer Jam if you will.

19 So he, when I got here, he
20 was -- he was the person that made it
21 happen.

22 Q So as I understand it, it
23 was all hands on deck for Summer Jam;
24 correct?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A Correct.

4 Q Those were your words;
5 right?

6 MR. MORO: Objection to
7 form.

8 A Yes. Correct.

9 Q And you hired an outside
10 company to help with Summer Jam; correct?

11 A We do that with all -- with
12 our big station events, yes.

13 Q Who was involved in putting
14 together Circle of Sisters?

15 A There was a couple of
16 outside contractors. Skip and Cynthia
17 worked primarily with a gentleman by the
18 name of Dan Otero for the artist side and
19 the artist side for Circle of Sisters is
20 minuscule compared to Summer Jam and then
21 we used a lady, her name is Lori, but I
22 don't remember her last name. Lori was
23 the person that coordinated the contracts
24 with the Javits Center, loading times.
25 She worked very closely with our

1 P. Ferro

2 promotions team with Skip Dillard and
3 Cynthia in the coordination of this
4 event.

5 Q Circle of Sisters is a
6 multi-day event; correct?

7 A It is a one-day event. It
8 used to be a multi-day event, but it
9 became a one day event.

10 Q And is Circle of Sisters, as
11 the name suggests, tailored to women?

12 MR. MORO: Objection to
13 form.

14 A Yes.

15 Q Yes?

16 A Yes. That is correct. The
17 main drivers for Circle of Sisters is
18 shopping for women, healthcare, cooking
19 demonstrations, artists, presentations
20 and signings. It was -- it's a show that
21 both Hot 97 supports, not in a large
22 scale like Summer Jam, but, you know,
23 we've supported it on Hot before.

24 What else could I tell you
25 to help you understand?

1 P. Ferro

2 Q Well, what was my question?

3 Do you recall what my question was?

4 A If it was a show catered
5 towards women and I was trying to tell
6 you everything that we do --

7 Q Okay.

8 A -- that it does for women.

9 Q Have you done that?

10 A I am sure that I missed a
11 couple of things, but it is, you know,
12 it's a big expedition for everything from
13 clothing to artwork to panels that Hot 97
14 and WBLS put together. You know, many of
15 the Hot 97 staff put the panels together
16 like Shaila did, like Deja did. I think
17 Steve Harvey came out one year.

18 Q And you said one of the
19 things that was involved in Circle of
20 Sisters was cooking; correct?

21 A Yes.

22 MR. MORO: Objection to
23 form.

24 A There was a cooking
25 demonstration one year that was pretty

1 P. Ferro

2 good.

3 Q Is Circle of Sisters not
4 considered as important an event to
5 MediaCo or Emmis as Summer Jam?

6 MR. MORO: Objection to
7 form.

8 A Media -- pardon me. Circle
9 of Sisters was the yearly event pre-COVID
10 for WBLS. It was that yearly event that
11 we would all -- it was an all hands on
12 deck also type of event that we would put
13 together. It didn't have as many moving
14 parts as Summer Jam, but for the brand it
15 was equally as important.

16 Q Did you consider Circle of
17 Sisters to be equally important to
18 MediaCo as Summer Jam?

19 MR. MORO: Objection to
20 form.

21 A At this point in time, no,
22 because of the pandemic.

23 Q Any other reason?

24 A No, no. We are moving
25 forward. We did it last year. We are

1 P. Ferro

2 doing it this year.

3 Q Why has the pandemic changed
4 its importance?

5 A Because from a monetary
6 standpoint the Javits Center, which is
7 where we used to do it, is a very
8 expensive venue. From a human being
9 being able to interact with others, we
10 were in lockdown so we couldn't and the
11 big push for that event is clients to
12 interact face to face with their users,
13 so we couldn't do it in 2020.

14 We moved to a virtual model
15 for '21 and for 2022.

16 Q Do you know what the ad
17 rates are for Ebro's show?

18 A I do not.

19 MR. MORO: Objection form.

20 Q Do you have any idea?

21 A I do not. I don't -- I
22 don't.

23 Q Who would know that?

24 A Brad should know that. Brad
25 should know that.

1 P. Ferro

2 Q If there were documents that
3 had that information -- well, withdrawn.

4 What documents would show
5 that information?

6 A Sales contracts with clients
7 would have, you know, you're getting this
8 in exchange for this amount of money and
9 when I say "this," I mean this amount of
10 commercials, endorsement, digital
11 presence, et cetera in exchange for this
12 amount of money, like a regular contract
13 that would -- that would show that.

14 Q Do you know what the ad
15 rates are for the midday slot on WBLS?

16 A I do not.

17 Q Do you know if Ebro's
18 morning show on Hot 97 reaches a greater
19 number of audience members than the mid
20 slot on WBLS?

21 MR. MORO: Objection to
22 form.

23 A There's more people that are
24 using radio in the morning from a cume
25 perspective, from a people tuning in on a

1 P. Ferro

2 weekly basis. On a daily basis I would
3 say that it's -- that Ebro has about as
4 much.

5 Q About as much?

6 A Yeah, even though he has a
7 direct head to head competitor.

8 Q And so an advertiser wants
9 to reach as many ears as possible;
10 correct?

11 MR. MORO: Objection to
12 form.

13 A That's very general, but
14 yes.

15 Q So it doesn't matter how a
16 show does compared to its direct
17 competitors? What matters is how many
18 ears the ad reaches; correct?

19 MR. MORO: Objection to
20 form.

21 A That's very general, but in
22 a general sense, yes.

23 Q So if I'm an advertiser, I
24 will pay more money to advertise on a
25 show that reaches a greater number of

1 P. Ferro

2 listeners; correct?

3 MR. MORO: Objection to
4 form.

5 A Correct.

6 Q It doesn't really matter to
7 me if, you know, if that show reaches,
8 you know, a certain number of listeners
9 in comparison to another show on the air
10 at that time; correct?

11 MR. MORO: Objection to
12 form.

13 A Correct. It's obviously
14 there's -- it's very different listeners
15 but, yes, you are correct.

16 Q Well, one is 18 to 49;
17 correct?

18 MR. MORO: Objection to
19 form.

20 A One is programmed for very
21 long time spent listening, which is WBLS.
22 We expect people to tune in and listen
23 for a very long period of time, so we
24 expect people to listen to the commercial
25 load.

1 P. Ferro

2 Hot 97 is programmed
3 differently. It's we get the bulk of our
4 ratings from cume, so not a lot of time
5 spent listening. It's harder to reach
6 the Hot 97 audience considerably.

7 Q But the demographic is very
8 similar; correct?

9 MR. MORO: Objection to
10 form.

11 A The demographic is very
12 different.

13 Q Well, Hot 97 is 18 to 49;
14 correct?

15 MR. MORO: Objection to
16 form.

17 A Hot 97 is 25 to 34 centric.

18 Q And so it's not 18 to 49;
19 correct?

20 A The 25 to 34 cell is there,
21 so if you do really well in that cell,
22 you should do well 18 to 34 and 18 to 49.

23 Q And BLS is 25 to 54;
24 correct?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A Yes.

4 Q So there's a big overlap
5 there between the audience numbers;
6 correct?

7 MR. MORO: Objection to
8 form.

9 A Yes, there is.

10 Q After 2017, were you
11 involved a second time in negotiating
12 Ebro's contract?

13 A The next time that we
14 discussed it was 2020.

15 Q And was it at that time
16 Emmis or MediaCo?

17 A There was a transition
18 period. MediaCo had brought in a market
19 president of their choosing and he and I
20 had that conversation. From my level I
21 was dealing with MediaCo and that market
22 manager. I don't know the workings of
23 what the executive team was doing at this
24 point.

25 Q But you were involved in the

1 P. Ferro

2 negotiations; correct?

3 A I was involved in 2020 in
4 delivering the message to Ebro that he
5 was going to have his pay reduced.

6 Q What did you tell him?

7 A I can't remember word for
8 word, but the general communication was
9 as you know we are going through a
10 worldwide pandemic, as you know there's
11 very little revenue coming in and the
12 company needs your help. I let him know
13 that I had taken a cut of pay and
14 everybody took a cut of pay, everybody.
15 Everybody on air took a cut -- well,
16 except -- except Shaila, but everybody.

17 So he was -- he was all
18 about helping us survive.

19 Q He just wanted to help you;
20 correct?

21 A He loves the brand. He
22 wanted to make sure that he had a place
23 to broadcast from.

24 Q Did you also tell him that
25 you be giving him shares to make up for

1 P. Ferro

2 the pay cut?

3 MR. MORO: Objection to
4 form.

5 Q Huh?

6 A He said objection to form.

7 MR. MORO: I said objection
8 to form.

9 Q He says objection to form
10 all the time. We'll just pause.

11 Let me do the question
12 again. Did you also tell Ebro that you
13 were giving him stock to make up for the
14 pay cut?

15 A We told him and everybody
16 else that we would eventually do that
17 once the transition from Emmis to MediaCo
18 was done and that happened later in the
19 year, so we did have that conversation to
20 answer your question. He didn't get it
21 right away.

22 Q But you told him it was
23 coming; right?

24 A Yes. We told everybody the
25 same thing.

1 P. Ferro

2 Q And his response to you when
3 you told him you'd be taking a pay cut is
4 that he just wanted to help? That's what
5 he told you; correct?

6 A He wanted to help. He
7 wanted to be serviceable. Whatever the
8 company needed were the words that I
9 remember him using.

10 Q What else do you recall
11 about that conversation with Ebro?

12 A It was quick. He
13 understood, he was receptive and it
14 didn't take very long. Those are the
15 things I remember. That's it.

16 Q So in 2020 you would have
17 been discussing a renewal of his contract
18 for another two years; is that correct?

19 A Yes.

20 Q And so that was -- sorry, go
21 ahead.

22 A The contracts are two plus
23 one, so in the contract we negotiated in
24 2017 kicked in for '18. We would have
25 been saying look, the plan is to renew

1 P. Ferro

2 you also later in the year.

3 Q But during that particular
4 negotiation in 2020, you told him that he
5 had to take a pay cut given the
6 circumstances surrounding the pandemic;
7 correct?

8 A Yes. Correct.

9 Q And did you keep his salary
10 at that lower rate for the rest of the
11 contract?

12 A And the beginning of the
13 next one, yes.

14 Q So you didn't raise his
15 salary?

16 A We couldn't.

17 Q Why couldn't you?

18 A Because there were COVID
19 hardships that the company was enduring,
20 that the whole industry was enduring.

21 Q So if this contract was in
22 2020, did he receive a pay increase at
23 any point after that?

24 A I believe that 2021 he would
25 have had an increase, perhaps back to

1 P. Ferro

2 pre-COVID numbers and 2022 would have had
3 money above that.

4 Q So in other words, you did
5 increase his salary during the term of
6 that contract that you negotiated in
7 2020; correct?

8 MR. MORO: Objection to
9 form.

10 A There were two negotiations,
11 so yes is the correct answer, but not --
12 we didn't have that discussion in that
13 initial conversation.

14 Q So in 2020, you cut his
15 salary because of the pandemic; correct?

16 A Yes.

17 Q You gave him shares
18 eventually to make up for that cut;
19 correct?

20 A The company gave him shares,
21 yes.

22 Q And in 2021 you reinstated
23 his salary to where it was prior to the
24 cut; correct?

25 MR. MORO: Can you read that

1 P. Ferro

2 back?

3 MR. LICUL: I'll ask the
4 question again.

5 Q In 2021 you reinstated his
6 salary back to where it was precut?

7 A I believe so. I don't -- I
8 don't study and make notes of what our
9 people make. Once that negotiation is
10 done there's -- you know, that's when the
11 real work begins.

12 From memory, yes, we wanted
13 to get Ebro back to pre-COVID numbers and
14 it took a couple of years to do it. It
15 took until past '21.

16 Q Well, was it 2021 or past
17 2021?

18 A I think it was mid '21, so
19 it would have been July, June of '21. I
20 don't want to guess and not give you an
21 accurate number. I can look for his
22 contract and give you specifics.

23 Q And then in 2022, you gave
24 him another raise of his salary and
25 raised him above the amount he was making

1 P. Ferro

2 pre-COVID; correct?

3 MR. MORO: Objection to
4 form.

5 A Yes.

6 Q Were you involved -- was
7 that the last -- well, withdrawn.

8 Have you been involved in
9 any negotiations with Ebro about his
10 compensation since that time, since 2020?

11 A Yes. We are in -- we are
12 currently -- we currently signed a new
13 deal with Ebro recently.

14 Q What's his salary now?

15 A I don't know the exact
16 numbers, but it's higher than what it was
17 last year.

18 Q Do you recall what it was
19 last year?

20 A I don't recall what it was,
21 but I do believe he got a bump of \$25,000
22 and equity in the company.

23 Q He got another round of
24 equity?

25 A Yes.

1 P. Ferro

2 Q How many rounds of equity in
3 the company did he get in total?

4 MR. MORO: Objection to
5 form.

6 A I believe he got one with
7 the cut, which is what I got personally,
8 I got one and as we are renegotiating
9 contracts, we are using equity to make it
10 attractive for talent.

11 Q So do you know if his salary
12 is above 400,000?

13 A I don't believe it is above
14 400,000 currently. I don't believe it
15 is. I could look for his contract and
16 give you specifics.

17 Q But you plan to raise his
18 salary again; correct?

19 MR. MORO: Objection to
20 form.

21 A I do.

22 Q When are you going to do
23 that?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A As per the contract,
3 whenever he and Brad finalized. Again, I
4 don't dwell on the deal. I know that he
5 signed it and we -- I don't know if we've
6 countersigned it, but I'm not -- I
7 don't -- as long as he's happy, that's
8 what I care about that, you know, the
9 talent is happy. They negotiated what
10 they want and they can get to work and do
11 good. I don't know what the specifics
12 are.

13 Q What is Deja Vu's current
14 salary?

15 MR. MORO: Objection to
16 form.

17 A Deja Vu, right now we are
18 also -- I believe she's back to pre-COVID
19 levels.

20 Q What amount is that?

21 A I don't know the specifics.

22 Q Is it more than \$200,000 in
23 salary a year?

24 A No.

25 Q And when did you restore her

1 P. Ferro

2 to pre-COVID levels?

3 MR. MORO: Objection to
4 form.

5 A With stock?

6 Q Without stock.

7 A Without stock, not yet. I
8 was just going to say that's what her
9 agent wants now, which is to get her back
10 to pre-COVID dollars.

11 Q So she took a pay cut at the
12 same time that Ebro did; correct?

13 A The contracts are staggered.
14 I think it's very important to get that.
15 For you to know, not every -- you know,
16 like there's some contracts that start in
17 January, some start in March and they're
18 all staggered.

19 So unfortunately Deja had
20 just signed a new deal as the pandemic
21 happened, so since it's a two plus one
22 now is when she's negotiating her next
23 deal.

24 Very much like me, just to
25 share, I have a two plus one, I'm at the

1 P. Ferro

2 last year of my contract and I haven't
3 had an opportunity to negotiate.

4 Ebro was up right when the
5 pandemic happened and now he's up again
6 in '23, three years later.

7 Q Well, prior to 2023, the
8 last contract Ebro signed was in 2020;
9 correct?

10 A Late 2020. It took time
11 because of the pandemic, yes.

12 Q Listen carefully, in 2020 he
13 signed a new contract; correct?

14 A Yes.

15 Q And that was when he took
16 the pay cut; correct?

17 A No.

18 Q No?

19 A No.

20 Q He took the pay cut before
21 then?

22 A Yes.

23 Q And so he took the pay cut
24 mid contract; correct?

25 A He took the pay cut at the

1 P. Ferro

2 last leg of his current contract then and
3 it carried over to the new deal that he
4 signed later in 2020.

5 Q In 2020?

6 A Correct.

7 Q And so the contract before
8 this one in 2023 was signed in 2020;
9 correct?

10 A Yes. That is correct.

11 Q And in the middle of that
12 contract, you restored him to his precut
13 level; correct?

14 MR. MORO: Objection to
15 form.

16 A I want to say in year three.

17 Q Well --

18 A I can get the contract and
19 give you specifics.

20 Q In 2021, did you restore
21 Ebro to his precut level?

22 A Salary, no.

23 Q So when you testified to
24 that earlier, you were wrong; correct?

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 A When he signed his contract,
4 he signed it with a cut. We were trying
5 to get him back to the pre-COVID levels.
6 We used stock to do it. Stock is not
7 compensation. Stock is not even taxed
8 the same way so, no, I --

9 Q You don't consider stock
10 compensation?

11 MR. MORO: He's not done
12 answering. Go ahead.

13 Q You don't consider stock
14 compensation?

15 MR. MORO: Do you have
16 anything else to add to the prior
17 question? If you need it read back,
18 we can.

19 A So your question was did we
20 restore Ebro back to his original dollar
21 salary amount and the answer was no
22 because we -- the company made it up with
23 stock options.

24 Q I'm talking about salary.
25 In 2020, Ebro took a salary cut; correct?

1 P. Ferro

2 A Yes. Correct.

3 Q In 2021, you testified
4 earlier that you restored his salary to
5 the precut level; is that correct?

6 MR. MORO: Objection to
7 form.

8 A I testified to that with the
9 thought that you understood that it was
10 that we got to that point using equity
11 and I apologize if I didn't --

12 Q And you testified earlier --

13 MR. MORO: He's not done.

14 Q -- that in 2022 you actually
15 increased his salary above the precut
16 level; correct?

17 MR. MORO: Can we get a read
18 back of the prior question just to
19 confirm whether or not he was done
20 answering before we move on?

21 (The requested portion was
22 read back by the Court Reporter.)

23 MR. MORO: Anything else you
24 want to add to that first question?

25 THE WITNESS: No, that's it.

1 P. Ferro

2 A I just want to say I don't
3 memorize the salaries of the on-air staff
4 to the exact figure, but that -- those
5 contracts are written. We can pull them
6 up if you want specifics we can. I don't
7 recall exactly when and at what point.

8 I do recall that we were
9 trying as a company to restore people to
10 be good, to get people back to the level
11 that they were at in terms of
12 compensation as soon as possible. Some
13 contracts it happened -- some contracts
14 were ending as the pandemic was
15 happening. Some contracts started right
16 after the pandemic was happening.

17 And now I'm done.

18 Q Are you done?

19 A I just said now I'm done.

20 Q Oh, okay.

21 In 2022 did you raise Ebro's
22 salary, salary, to a level above the cut
23 he took in 2020?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A I don't recall. I'd have to
3 see the contract.

4 Q Now, you said that Deja Vu
5 also took a pay cut around 2020 because
6 of the pandemic; correct?

7 A Correct.

8 Q I think you testified
9 earlier that she still has not been
10 restored to the precut level; correct?

11 A Correct.

12 Q Were you involved in
13 negotiating contracts with Flex?

14 A No. Contracts with Flex
15 were done mostly through the market
16 president. Mostly through the market
17 president.

18 Q Who is that?

19 A So at the point that I was
20 involved, it was Charlie Morgan and then
21 when we renewed him for the current term,
22 it would have been Rhonda Castro or Brad
23 Tobin. Brad for sure. Rhonda Castro was
24 here for a very short amount of time.

25 Q So you weren't involved in

1 P. Ferro

2 those; correct?

3 A Correct.

4 Q Did there come a time when
5 Flex was given the title of digital
6 content specialist?

7 A I've heard that title and I
8 believe that title was given to him
9 before I got here.

10 Q Do you know what he does as
11 digital content specialist?

12 A They used him as consulting
13 for ideas to grow the digital platform of
14 Hot 97 mostly.

15 Q Anything else?

16 A Specifically for digital and
17 his contributions, that's what I
18 understand is his idea generation.

19 Q Did Flex also get the title
20 of mix show coordinator at some point?

21 A That is correct, yes.

22 Q I'm sorry?

23 A That is correct, yes.

24 Q And what does he do as mix
25 show coordinator?

1 P. Ferro

2 A As mix show coordinator, he
3 literally coordinates with the program
4 director, the schedule of the mixers, the
5 DJs, the people that blend music in a
6 party style atmosphere on Fridays and
7 Saturday nights. He is in charge of
8 making sure that he works with Cynthia to
9 get us the best DJs slash mixers
10 available. He is in charge of making
11 sure that the music selection that's
12 pre -- that's provided to him via our
13 research is followed. He opines on if a
14 mixer should be moved up to a better time
15 slot or down and because of his vast
16 experience we listen, but the ultimate
17 call is Cynthia's as to what he does.
18 That's why he's a mix show coordinator
19 and not a mix show director.

20 Q Who was mix show coordinator
21 before Flex was given that title?

22 A There was nobody.

23 Q Who was digital content
24 specialist before Flex was given that
25 title?

1 P. Ferro

2 A That was before I got here.

3 I'm not sure.

4 Q Do you know if anyone had
5 that title?

6 A I do not.

7 Q Let's talk a little bit
8 about Ms. Scott. When did you decide to
9 terminate her employment?

10 A I decided to --

11 MR. MORO: Objection to
12 form.

13 A -- not -- I put my opinion
14 to not renew her contract early in 2022,
15 March of '22.

16 Q Did you communicate that
17 decision to anyone?

18 A I communicated it to Brad
19 and to Cynthia.

20 Q Was this in one conversation
21 or separate conversation?

22 A I communicated first to Brad
23 and then I let Cynthia know that that's
24 where I was leaning towards.

25 Q What did you say to Brad?

1 P. Ferro

2 A What did I say to Brad?

3 Q Yeah.

4 A I said that based on the
5 research study, Shaila was -- had very
6 low familiarity considering the amount of
7 time that she had been on the air. The
8 midday show was passive, so let's put
9 Deja Vu in there and let's get somebody
10 that does digital really well in the
11 afternoons and I was just going by the
12 direction that the company had instilled
13 and wanting to do digital, more digital
14 content.

15 Q Who instilled that desire to
16 do more digital content?

17 MR. MORO: Objection to
18 form.

19 A The entire industry is
20 moving towards that, more digital and
21 digital, a necessity to be in digital.
22 We are following station trends. We
23 believe it. We believe that as
24 commercial advertising revenue comes
25 down, we believe that digital is the -- a

1 P. Ferro

2 way to offset that.

3 Q At the time you decided to
4 terminate Ms. Scott's employment, she in
5 fact was tied for the number one slot on
6 middays in the New York area; correct?

7 MR. MORO: Objection to
8 form.

9 A I'd have to look at the
10 demographics to determine that. WBLS
11 does really well in that time slot when
12 Shaila was on and when she left.

13 Q You believe she was number
14 one in that time slot when you decided to
15 fire here?

16 MR. MORO: Objection to
17 form.

18 A I believe that she did well.
19 But I believe as the industry moves
20 towards a more digital content, more
21 digital need, that is what we as an
22 industry require of our people. I know a
23 program director that lost her job in
24 Buffalo because she did not perform her
25 digital duties for her company.

1 P. Ferro

2 Q Who in the industry directed
3 you to do more digital content?

4 MR. MORO: Objection to
5 form.

6 A Nobody in the industry
7 directed me, but I keep track of what's
8 happening in other media companies. I'm
9 aware of the need because it's my
10 business.

11 Q So earlier when you
12 testified that you were following the
13 directives to do more digital, were you
14 referring to any particular person or
15 were you referring to the industry in
16 general?

17 MR. MORO: Objection to
18 form.

19 A I was referring to the
20 desire of MediaCo to do better in the
21 digital space for BLS and that
22 corresponds to where the industry is
23 moving across the board.

24 Q Who? Which human being at
25 MediaCo expressed that desire?

1 P. Ferro

2 A A conversation that I had
3 with Brad Tobin.

4 Q What did Brad say?

5 A Brad said if we want to
6 survive and do well, we have to follow
7 suit with what every other broadcaster is
8 doing. We have to grow our digital
9 platform.

10 Q What else did he say?

11 A I can't recall exactly, but
12 that was what stuck in my mind as a
13 directive.

14 Q And is that when you or
15 MediaCo commissioned the study that you
16 referred to earlier?

17 MR. MORO: Objection to
18 form.

19 A No. The study was going to
20 happen regardless because we rotate.
21 Some years we do Hot 97. Some years we
22 do WBLS. It had been some time that we
23 hadn't done WBLS, so it just happened
24 that we were doing that study in the
25 spring of 2022.

1 P. Ferro

2 Q And is it after you -- well,
3 so did you decide to terminate
4 Ms. Scott's employment before you
5 reviewed the results of that study or
6 after?

7 MR. MORO: Objection to
8 form.

9 A After I got the initial
10 feedback, I started considering her --
11 not renewing her contract and then once I
12 got the full report, it was pretty -- it
13 helped me make up my mind.

14 Q And so when you told -- you
15 said you told Brad that you had decided
16 to let Ms. Scott go. What did he say to
17 you?

18 MR. MORO: Objection to
19 form.

20 A I wouldn't tell my boss what
21 to do. I would tell my boss what I
22 believe and what I believe is the best
23 course of action for a brand. I suggest,
24 but I can't arbitrarily say let's fire
25 this person. It's a conversation. It's

1 P. Ferro

2 what you do.

3 Q What was my question,
4 Mr. Ferro?

5 A If I had fired her.

6 MR. MORO: Can we have the
7 question read back?

8 Q My question was --

9 MR. MORO: Well, hold on,
10 hold on.

11 Q -- what did Brad say to you
12 when you recommended firing Ms. Scott?

13 MR. MORO: I would prefer to
14 have the reporter read it back
15 though. Thank you.

16 MR. LICUL: Well, the
17 question -- I'm not going to ask the
18 question again.

19 MR. MORO: Are you
20 withdrawing it?

21 MR. LICUL: I'm withdrawing
22 the question, so I'm going to ask the
23 question a different way.

24 Q When you told Brad that you
25 had decided you wanted to fire Ms. Scott,

1 P. Ferro

2 what did he say in response?

3 MR. MORO: Objection to
4 form.

5 A I did not use those words.

6 Q What words did you use?

7 A I said Shaila's contract is
8 coming up and I feel that we should not
9 renew it based on the findings of the
10 research study.

11 Q What else did you say to
12 him?

13 A That's all I recall.

14 Q What did he say?

15 A I don't remember.

16 Q Do you remember anything
17 else about what the two of you said to
18 each other during that conversation?

19 A I do not remember.

20 Q Now, you also said you spoke
21 to Cynthia, Cynthia Smith --

22 A Yes.

23 Q -- about your desire not to
24 renew Ms. Scott's contract; correct?

25 A That is correct.

1 P. Ferro

2 Q What did you say to her?

3 A I said -- I asked her if she
4 had seen the initial findings and she
5 responded that she had and we were both
6 of the agreement that Shaila didn't
7 perform the way that we had hoped or
8 expected and I said to her her contract's
9 up, we should put Deja Vu in her show.

10 Q And what did she say in
11 response?

12 A She agreed.

13 Q Did the two of you say
14 anything else to each other during that
15 conversation?

16 A I'm sure we did, but I don't
17 recall.

18 Q Did you speak to anyone else
19 about your decision not to renew
20 Ms. Scott's contract, other than Brad and
21 Cynthia Smith?

22 A I did not.

23 Q Did you speak to HR?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A I did not.

3 Q Do you know if anyone did?

4 MR. MORO: Objection to
5 form.

6 A I don't know who took the
7 next step to speak to HR.

8 Q Do you agree that somebody
9 must have spoken to HR?

10 MR. MORO: Objection to
11 form.

12 A Yes.

13 Q Why is that?

14 A Because when you hire or
15 terminate someone, human resources is
16 involved to make sure that the process is
17 done properly.

18 Q The study that caused you to
19 recommend not renewing Ms. Scott's
20 contract, did that say anything about
21 age?

22 MR. MORO: Objection to
23 form.

24 A About the age of Shaila.

25 Q About the age of anyone.

1 P. Ferro

2 MR. MORO: Objection to
3 form.

4 A The study is based on age
5 groups and different demographics so,
6 yes.

7 Q What did it say about age?

8 MR. MORO: Objection to
9 form.

10 A It is a very comprehensive
11 and long presentation. Can you be more
12 specific with your question in terms of
13 this?

14 Q Do you remember anything
15 that the study said about age?

16 MR. MORO: Note my objection
17 to form.

18 A The study said and I'd have
19 to go back and reference it, it showed
20 that the station could grow if we
21 appealed to a younger demographic.

22 Q And how were you going to
23 appeal to a younger demographic?

24 A By communicating with them
25 through the devices that they use and

1 P. Ferro

2 that they're on.

3 Q Is that what you told Brad?

4 MR. MORO: Objection to
5 form.

6 A That's what I believed. I
7 believed that if you're going to be
8 successful, you have to communicate with
9 your audience in the devices that you're
10 using and we all have teenagers or
11 nephews or whatever and we always see
12 them with their heads buried on their
13 phone.

14 Q And that was an important
15 part of the reason you wanted to let
16 Shaila go; correct?

17 MR. MORO: Objection to
18 form.

19 A No. That was an important
20 part of why I wanted to bring somebody
21 that knew how to do that for the
22 afternoon show.

23 Q And at some point you
24 communicated that to Brad; correct?

25 A I must have, but I don't

1 P. Ferro

2 recall when exactly.

3 Q And that you wanted to reach
4 a younger audience by communicating to
5 them through the mechanisms that they
6 know; correct?

7 MR. MORO: Objection to
8 form.

9 A I didn't use the word
10 younger. I said broader because I did
11 not want to put in jeopardy the demo that
12 or the audience that we have on WBLS or
13 that we had at that point. I wanted to
14 broaden the audience.

15 Q So you wanted to broaden the
16 audience by introducing younger audience
17 members; correct?

18 A No.

19 Q Well, how were you going to
20 broaden the audience without introducing
21 younger audience members?

22 A Through the use of digital.
23 Flex is 55 and he -- nobody does digital
24 like Flex does, so it's not an issue of
25 age. It's an issue of knowing what to

1 P. Ferro

2 do. It's a skill set.

3 Q Mr. Ferro, the audience you
4 were trying to reach was a younger
5 audience; correct?

6 MR. MORO: Objection to
7 form.

8 A It was a broader audience,
9 yes.

10 Q Did I say broader audience
11 or did I say younger audience?

12 A You said younger audience --

13 MR. MORO: Objection.

14 A -- but I feel like you're
15 kind of leading me in some way and it's
16 uncomfortable.

17 Q So you were not trying to
18 reach a younger audience; is that
19 correct?

20 A I was trying to reach a
21 broader audience.

22 Q And the -- sorry, I didn't
23 mean to interrupt.

24 A No. And the opportunity as
25 per the test was to do better with people

1 P. Ferro

2 aged in their 40's.

3 Q Age what?

4 A In their 40's. That
5 broadens the audience.

6 Q And you were concerned that
7 WBLS listeners were aged 40 or older;
8 correct?

9 MR. MORO: Objection to
10 form.

11 A I'm not concerned with the
12 current listeners. We -- I appreciate
13 and very much cherish the current
14 listeners. I wanted to add -- add to
15 that, not do anything to detract from
16 that audience.

17 Q So you were trying to add
18 listeners from 35 to 44; correct?

19 A Yes.

20 Q And the listeners --
21 withdrawn.

22 Were you present when
23 Ms. Scott was told that her contract was
24 not being renewed?

25 A We did it over a Zoom

1 P. Ferro

2 meeting because she failed to come in
3 that day in person, so I was not
4 physically present, but I am present as I
5 am with you now here.

6 Q Who else was on that Zoom
7 call?

8 A Celeste McCaw, our in-house
9 counsel, Cynthia Smith and Shaila.

10 Q Did you do anything to
11 prepare for that meeting?

12 A I spoke with Celeste. I
13 spoke with Cynthia. We confirmed that
14 this is the move that we wanted to make.
15 Obviously our executive team knew that we
16 were going to make this -- that we wanted
17 to make this move and were going to make
18 this move. We wouldn't have done it
19 without them. Those are the meetings
20 that we had prior.

21 Q So you spoke to Cynthia
22 Smith to prepare for the firing meeting;
23 correct?

24 A Correct.

25 Q What did you and Ms. Smith

1 P. Ferro

2 say to each other?

3 A We said that we both -- that
4 it was very difficult, that we both
5 really loved Deja, pardon me, Shaila,
6 that it was going to be a difficult, but
7 necessary move because of what we had
8 seen and we were sad about it.

9 Q Did you and Ms. Smith
10 discuss what you were going to say to
11 Shaila?

12 A No, because for termination
13 or nonrenewal it's very standard
14 conversation. Unfortunately I've done it
15 before. So we didn't go into too much
16 conversation.

17 I'm not sure if I could
18 share what Celeste McCaw told us to do.

19 MR. MORO: Yeah. I'm just
20 going to direct you to exclude any
21 conversations you had with Celeste.

22 Q Do you recall anything
23 else --

24 MR. LICUL: Sorry.

25 MR. MORO: You can limit

1 P. Ferro

2 your answer to conversations with
3 Cynthia.

4 MR. LICUL: I'm not asking
5 the conversation with Ms. McCaw.

6 Q Do you recall anything else
7 about the conversation with Ms. Smith to
8 prepare for the termination?

9 A No.

10 Q Were you given, just yes or
11 no, any bullet points or talking points
12 about what to say to Ms. Scott during the
13 termination meeting?

14 A I communicated with our
15 in-house counsel and I'm not sure if I
16 can say yes or no.

17 Q I'm not asking you who you
18 communicated with. Listen carefully, I'm
19 asking you were you given a written list
20 of bullet points or some type of script
21 as to what to say to Ms. Scott during the
22 termination meeting, just yes or no?

23 A No.

24 Q Do you know if Ms. Smith
25 was?

1 P. Ferro

2 A I don't know.

3 MR. MORO: Objection to
4 form.

5 Q All right. So tell me what
6 you can recall about the conversation
7 where you fired Shaila Scott.

8 MR. MORO: Objection to
9 form.

10 A We let her -- I let her
11 know -- I'm not sure if I was the one
12 that led the conversation or Celeste, so
13 I'm sorry about that, but either Celeste
14 or I communicated that we were not going
15 to renew her contract moving forward and
16 Shaila was very kind, she was very
17 appreciative to me for teaching her what
18 she could pick up in the time that we
19 worked together. She was appreciative to
20 Cynthia and she, herself, cut the
21 conversation short.

22 Q Do you recall anything that
23 she said specifically?

24 A Yes. She asked what the
25 next steps were and Celeste said that our

1 P. Ferro

2 director of human resource would reach
3 out to her with paperwork on insurance
4 and any other paperwork or any other
5 questions that she might have. She would
6 be available, she being Celeste, would be
7 available to answer her questions and so
8 would our director of HR.

9 Q Was she upset?

10 A No.

11 MR. MORO: Objection to
12 form.

13 THE WITNESS: Sorry.

14 A No. She wasn't upset. She
15 was very calm and relaxed.

16 Q Did she ask you why you had
17 decided not to renew her contract?

18 A I don't recall her asking
19 why. I don't remember getting into that
20 conversation.

21 Q Do you recall anything else
22 that was said during this termination
23 meeting?

24 THE WITNESS: His computer
25 is frozen.

1 P. Ferro

2 MR. MORO: Can we go off the
3 record for a second?

4 (Time noted: 5:08 p.m.)

5 (A short recess was taken.)

6 (Time noted: 5:10 p.m.)

7 Q Do you recall anything else
8 that was said at this termination
9 meeting?

10 A And is that after I answered
11 her questions regarding next steps and
12 who she should reach out to with
13 questions?

14 Q Other than what you've
15 testified to, do you recall anything else
16 that was said at this termination
17 meeting?

18 A No.

19 Q Did you speak to anyone
20 about the termination meeting after it
21 happened?

22 A After it happened we
23 communicated to staff that we had made a
24 change so they wouldn't hear about it via
25 rumor hearsay or any other way.

1 P. Ferro

2 Q What did you tell staff?

3 A Cynthia was the one that
4 communicated to staff.

5 Q Do you know what she said?

6 A I don't recall specifically,
7 but it was she delivered the message that
8 Shaila was no longer part of the team.

9 Q After communicating that to
10 staff, did any staff members speak to you
11 about Ms. Scott's termination?

12 A Not that I can recall.

13 Q Now, after you told
14 Ms. Scott that you were terminating --
15 you were not renewing her contract, did
16 you permit her to go back and work
17 through the end of her contract?

18 MR. MORO: Objection to
19 form.

20 A It would have been an option
21 had she requested it, but we didn't get
22 to that conversation. We didn't get
23 there. That wasn't discussed.

24 Q So if she had asked you to
25 continue through the end of her contract,

1 P. Ferro

2 you would have allowed that to happen?

3 MR. MORO: Objection to
4 form.

5 A I'm not sure what I would
6 have answered at that point in time.
7 Some time has passed now. I feel
8 differently today than I did back then.

9 Q Isn't it true, Mr. Ferro,
10 that you had decided before the
11 termination meeting that you would not
12 permit her to work through the end of her
13 contract?

14 MR. MORO: Objection to
15 form.

16 A No.

17 Q And so it's your testimony
18 that the reason she didn't work through
19 the end of her contract is because she
20 didn't ask to?

21 MR. MORO: Objection to
22 form.

23 A My recollection was to
24 not -- to pay her through the end of her
25 contract, but that she didn't have to

1 P. Ferro

2 perform duties to earn that money and we
3 put somebody else to cover the shift
4 before Shaila got there, so we just
5 didn't have that conversation.

6 Q Prior to the termination
7 meeting, did you already have that plan
8 in place as to who would fill in for her
9 through the end of her contract?

10 A We -- yes. Cynthia and I
11 discussed candidates. I came up with a
12 handful of different scenarios and at the
13 end of the day we ended up just having
14 the shift covered by Bugsy.

15 Q And I'm talking about the
16 period of time between the time you told
17 Ms. Scott that you were not going to
18 renew her contract and the actual end of
19 her contract.

20 A Yes. Correct.

21 Q So you had a plan in place
22 to replace her through the end of her
23 contract; correct?

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A Yes.

3 Q And that's because you
4 already decided that you would not let
5 her work through the end of her contract;
6 correct?

7 A No.

8 MR. MORO: Objection to
9 form.

10 Q So why did you put that plan
11 in place?

12 MR. MORO: Can you repeat
13 that, Valdi?

14 MR. LICUL: Sure. I mumbled
15 that.

16 Q Why did you put that plan in
17 place if you did not intend for her to
18 stop working on the day of the
19 termination?

20 A Because in my experience
21 you'd have to hope for the best, but
22 prepare for the worst and you always have
23 to have at least one plan in place just
24 in case things don't go to how you want
25 them to go or you expect them to go.

1 P. Ferro

2 Q Now, by this time, by the
3 date of the termination meeting, you had
4 already hired Jusnik; correct?

5 A I believe so, yes.

6 Q Yeah. But you hadn't made
7 the announcement yet; correct?

8 MR. MORO: Objection to
9 form.

10 A Correct.

11 Q And so you made the
12 announcement about Jusnik's hire after
13 you terminated Ms. Scott; correct?

14 MR. MORO: Objection to
15 form.

16 A Correct.

17 Q How long was there a gap
18 between the time you terminated Ms. Scott
19 and you announced the hiring of Jusnik?

20 A I'm just going to walk
21 through the thought process. Shaila was
22 a couple of weeks away from her end date,
23 so this would have been four to five
24 weeks after.

25 Q When Jusnik was hired, was

1 P. Ferro

2 there a point at which she came into the
3 office to be introduced to her colleagues
4 at MediaCo?

5 A Yes.

6 Q Did you take her around the
7 office?

8 A I took her to a portion of
9 the office and Brad took her to the other
10 portion of the office because I was busy
11 doing other work, so I couldn't do the
12 full tour.

13 Q What did you say to people
14 when you introduced her?

15 A By this time people knew
16 that she was coming and the introduction
17 was meet Jusnik, she's going to be doing
18 the afternoon show on WBLS.

19 Q Do you know what Brad said
20 when he introduced her?

21 MR. MORO: Objection to
22 form.

23 A I have no idea. I don't
24 know.

25 Q I'm just trying to figure

1 P. Ferro

2 out if we need to take a break or not. I
3 want to show you a document, Mr. Ferro.

4 A Okay.

5 MR. MORO: Just give me a
6 heads up when you upload it.

7 MR. LICUL: I will.

8 Q By the way, before I do
9 that, did you ever hear anyone at MediaCo
10 or Emmis refer to WBLS as being old?

11 A No.

12 Q Never heard that?

13 A No.

14 (The above-referred-to
15 e-mail chain and contract were marked
16 as Exhibit Ferro 2 for identification
17 as of this date.)

18 MR. LICUL: I think if you
19 refresh you'll see it, Chris.

20 What I marked as Ferro 2 is
21 MediaCo 1730 through 1754.

22 MR. MORO: I see there's
23 more than 1730 and 1754.

24 MR. LICUL: Are you sure?

25 MR. MORO: I have multiple

1 P. Ferro

2 exhibits in one PDF here.

3 MR. LICUL: It is one PDF,
4 but it should be 1730 through 1754.

5 MR. MORO: I have 1730, oh,
6 to 1754.

7 MR. LICUL: Yes. Sorry.

8 MR. MORO: I got it. Yes, I
9 have 1730 through 1754.

10 Q Mr. Ferro, please take a
11 look at that and tell me if you recognize
12 that document.

13 A I do.

14 Q What is it?

15 A It is a note that I -- an
16 e-mail that I wrote to Rahsan, our CEO
17 and Brad, our CCO on the 15th of April
18 where it highlights Deja's popularity
19 over Shaila.

20 MR. MORO: If you want to
21 scroll, feel free to scroll.

22 A But your question is do I
23 recognize it and my answer is I do. I
24 wrote this.

25 Q And remember earlier in

1 P. Ferro

2 today's deposition --

3 MR. LICUL: Sorry, I can't
4 hear you.

5 MR. MORO: Sorry about that.
6 I just want you to be aware and so
7 everyone can hear me that there is
8 more than just this e-mail here and
9 this is what I was pointing out to
10 Valdi, that this document is also
11 tacked in.

12 MR. LICUL: Right. That's a
13 fair point, Chris I'll ask about
14 that.

15 Q You see the first part of
16 that Ferro Exhibit 2 is MediaCo 1730
17 through 1734. Do you see that, there's
18 an e-mail exchange there?

19 A Yes.

20 Q And then after that from
21 1735 to the rest of the document it looks
22 like a copy of Jusnik's contract;
23 correct?

24 A That is correct.

25 Q Do you know if the e-mail

1 P. Ferro

2 chain attached at any point a copy of
3 Jusnik's contract?

4 A No. What I did was I
5 attached the early findings of the study,
6 which are just the preliminary findings,
7 but at this point in time I didn't have
8 Nicole's contract.

9 MR. MORO: I'm noting my
10 objection to form here also.

11 MR. LICUL: Okay.

12 Q So early in this deposition
13 earlier this morning you mentioned an
14 e-mail you sent to Rahsan-Rahsan and Brad
15 Tobin explaining why you decided to not
16 extend or not renew Ms. Scott's contract;
17 correct? Do you remember testifying
18 about that?

19 MR. MORO: Note my objection
20 to form.

21 Can you read that back?

22 MR. LICUL: That was
23 butchered. Let me do it again.

24 Q Earlier in today's
25 deposition you identified an e-mail that

1 P. Ferro

2 you had sent to Brad and Rahsan-Rahsan
3 where you explain your determination or
4 conclusion not to renew Ms. Scott's
5 contract. Do you remember that
6 testimony?

7 A I do.

8 Q Is this that e-mail?

9 A It is.

10 Q All right. Is the e-mail
11 beginning on the first page, the top page
12 dated April 15, 2022 at 11:12 where you
13 explain your rationale?

14 MR. MORO: Objection to
15 form.

16 A Will you give me a second so
17 I can just --

18 Q Yes.

19 A -- read through it and
20 answer the question as accurately as
21 possible?

22 Q Yes. Just read through it
23 and then I'll ask you some questions.
24 Maybe that's the best way to do it.

25 A Okay. That makes sense. I

1 P. Ferro

2 remember writing this, yes.

3 Okay. I stopped at what I
4 wrote and then the key findings are next.
5 Should I read those through or do you --

6 Q Well, why don't you -- who
7 wrote the key findings portion?

8 A The key findings were
9 written by Kevin Cassidy, who's the
10 person that oversaw the study.

11 Q And who highlighted the key
12 findings portion?

13 A I believe I did.

14 Q So you cut and pasted the
15 key findings and highlighted the portions
16 that you wanted Rahsan-Rahsan and Brad to
17 notice; correct?

18 MR. MORO: Objection to
19 form.

20 A I copied all of the
21 findings. There are six of them, but I
22 copied three to make sure that they saw
23 if they wouldn't get down to later on in
24 the e-mail.

25 Q And you also highlighted

1 P. Ferro

2 sections of those first three findings
3 that you wanted them to focus on;
4 correct?

5 MR. MORO: Objection to
6 form.

7 A Correct.

8 Q Where in this e-mail
9 explaining why you decided not to renew
10 Ms. Scott's contract do you mention
11 anything about digital?

12 MR. MORO: Objection to
13 form.

14 A I don't.

15 Q Why not?

16 A Because it's a given.

17 Q Is there any other reason
18 you didn't mention digital?

19 A No.

20 Q So let me ask you a few
21 questions. Withdrawn.

22 Why do you say it's a given?

23 A Because the entire industry
24 is moving towards a more digital portion.
25 I even mentioned that a program director

1 P. Ferro

2 had lost her job as program director
3 because she didn't meet the digital
4 standards of her company.

5 Q And so this was the most
6 important thing, the most important
7 factor to you in deciding not to renew
8 Ms. Scott's contract; correct?

9 MR. MORO: Objection to
10 form.

11 A No.

12 Q What was the most important
13 fact?

14 A The fact that she
15 underperformed Deja. We are talking
16 about two different things. Nicole was
17 brought in to do the afternoon show and
18 then the decision was, you know, is it --
19 who's more popular with our audience, is
20 it Shaila or is it Deja.

21 Q And you didn't consider
22 anyone else, correct, other than Shaila
23 or Deja as to who you would remove;
24 right?

25 A There was nobody else to

1 P. Ferro

2 remove.

3 Q One of those two women was
4 going to go; correct?

5 MR. MORO: Objection to
6 form.

7 A There was no -- those were
8 the two full-time people.

9 Q Now, in explaining why you
10 picked Shaila, you don't mention anything
11 about digital; correct?

12 MR. MORO: Objection to
13 form.

14 A In this e-mail I do not
15 mention anything about digital.

16 Q Now, let me ask you a few
17 things about this e-mail.

18 A Sure.

19 Q Take a look at the first
20 paragraph. You mention 75 percent
21 familiarity for Deja versus 50 percent
22 for Shaila. What are you referring to
23 there when you're talking about
24 familiarity?

25 A The way that the question is

1 P. Ferro

2 asked in these research studies are
3 there's two ways that you ask
4 familiarity. One is aided and the other
5 one is unaided. Unaided means, you know,
6 if I were to ask you what your favorite
7 movies are and then you would name the
8 top five that come to your head, that's
9 unaided and then if I said well, what
10 about Top Gun? Oh, yeah, I like that
11 one, too, so I'm aiding you.

12 So the familiarity that I'm
13 referring to here is at that level, just
14 so you know, 75 percent of the people in
15 the survey were familiar with Deja versus
16 only half of the people that could
17 identify Shaila.

18 Q In the second paragraph you
19 write "As soon as we feel Nuyork's deal
20 is close (we're waiting on Joe's feedback
21 on the latest comments from Brad) and we
22 feel like she's done, I say we move
23 forward with Shaila." Did you write
24 that?

25 A I did write that, yes.

1 P. Ferro

2 Q And you underlined "I say we
3 move forward with Shaila;" correct?

4 A Right.

5 Q And when you say -- when you
6 wrote "I say we move forward with
7 Shaila," you are telling Rahsan-Rahsan
8 and Brad that you are going to terminate
9 Shaila once Jusnik's deal is done;
10 correct?

11 MR. MORO: Objection to
12 form.

13 A What the e-mail says is I
14 say we move forward with Shaila. That's
15 a suggestion. That was my professional
16 opinion of the best thing to do for the
17 brand. I wouldn't have made the final
18 decision. I could only suggest. I don't
19 own or operate the company at that level.

20 Q So your recommendation was
21 once Jusnik's deal is, in your words,
22 close you recommend or suggest we move
23 forward with Shaila; correct?

24 A Yes.

25 MR. MORO: Objection to

1 P. Ferro

2 form.

3 Q And the move forward is
4 terminating her employment; correct?

5 A Correct.

6 Q And you felt so strongly
7 about it that you actually underlined "I
8 say we move forward with Shaila;"
9 correct?

10 MR. MORO: Objection to
11 form.

12 A Yes.

13 Q Who is Joe?

14 A Refreshing my memory, Joe is
15 the representative that Brad was speaking
16 to on Nicole's side.

17 Q In the next paragraph you
18 write about your on-air plan. Do you see
19 that?

20 A I do see that, yes.

21 Q And you talk about three,
22 four weeks past Jusnik's arrival you
23 announce a new lineup for BLS. Do you
24 see that?

25 A Give me a second. Let me

1 P. Ferro

2 just read that. "When we're ready (three
3 or four weeks post Nicole's arrival) we
4 announce the new lineup and do a mountain
5 of press on Nicole for attention." Yes,
6 that's correct.

7 Q What was that new lineup
8 going to be?

9 MR. MORO: Objection to
10 form.

11 A The new lineup was going to
12 be that Deja was going to be in the
13 midday show and that Nicole was going to
14 be the afternoon drive person.

15 Q Anything else?

16 A Those were the only moves
17 that we were making. That was the only
18 thing, yes.

19 Q So overall the only -- you
20 were adding Jusnik and you were
21 eliminating Shaila Scott; correct?

22 MR. MORO: Objection to
23 form.

24 A Correct.

25 Q Now, look at point one of

1 P. Ferro

2 the key findings. You highlight a
3 section of the key findings that states
4 "BLS is getting primary P1 support from
5 the older segment of listeners." Do you
6 see that?

7 A Yes.

8 Q And that's something you
9 highlighted for Rahsan and Brad; correct?

10 A Yes.

11 Q What does that statement
12 mean?

13 MR. MORO: Objection to
14 form.

15 A That means that the bulk of
16 the audience that is using WBLS falls
17 outside of the 25 to 54 demographic.

18 Q On the older side of that
19 demographic; correct?

20 A That is correct.

21 Q Right. You used the word
22 older; correct?

23 A Those weren't my words.
24 Those were.

25 MR. MORO: Objection to

1 P. Ferro

2 form. Go ahead.

3 A Those were Kevin's words. I
4 highlighted so our top executives could
5 know where their brand was.

6 Q What is P1?

7 A P1, P refers to preference,
8 so when a radio lingo is -- P1 is
9 preference 1. P2 is preference level 2.
10 So when you're a broadcaster, you want to
11 have as many P1's as possible. It's the
12 old 80/20 rule where 80 percent of your
13 business comes from only 20 percent of
14 revolving customers. Our revolving
15 customers are P1's.

16 Q And the P1's that you're
17 referring to here -- well, withdrawn.

18 And the study said that
19 WBL's P1's were older segments of
20 listeners; correct?

21 A Yes.

22 Q And it was in part on this
23 finding that you decided to not renew
24 Ms. Scott's contract; correct?

25 A Not this one. There is a

1 P. Ferro

2 point where we specifically -- where I
3 specifically asked Kevin what he thought.
4 I asked him Shaila or Deja and his
5 response was they both have similar like
6 scores. Deja is the more familiar one.

7 I would like to read it. I
8 don't want to paraphrase, but his push
9 was if you're going to make a choice,
10 Deja's the better choice.

11 Q But this is the e-mail where
12 you explain why you picked letting go
13 Shaila rather than Deja; correct?

14 MR. MORO: Objection to
15 form.

16 A Yes.

17 Q And you highlight for Brad
18 and Rahsan-Rahsan that BLS is getting
19 primary support from the older segment of
20 the listeners; correct?

21 A Correct.

22 MR. MORO: Objection to
23 form.

24 Q And that had something to do
25 with why you chose Shaila versus Deja?

1 P. Ferro

2 A Correct.

3 MR. MORO: Objection to
4 form.

5 A Not in the least.

6 Q Not in the least? So why
7 did you highlight it here?

8 A I attached the conversation
9 that I had with Kevin in this e-mail to
10 them.

11 Q Well, no. What you attached
12 were the first three findings that were
13 made by Kevin; right?

14 A No. I sent -- I had an
15 e-mail exchange with Kevin --

16 Q Right.

17 A -- regarding those findings
18 and I see it as part of one document.
19 Would you -- should I read it?

20 Q Well, my question is
21 different. I know you attached your
22 e-mail exchange with Kevin. Is that what
23 you're referring to?

24 A Correct, the part where he
25 recommends Deja over Shaila.

1 P. Ferro

2 Q Right. But then when you
3 forward Kevin's findings to Rahsan and
4 Brad, you attach a portion of those
5 findings to your e-mail; correct?

6 A Correct.

7 Q You attach the first three?
8 MR. MORO: Objection to
9 form.

10 A Let's see, I attached the
11 first -- I just want to make sure that
12 that's accurate.

13 Yes. I attached the first
14 three because usually the bigger
15 headlines come to the top, so that's why
16 I highlighted those.

17 Q And the first one speaks
18 about BLS getting support from the older
19 segment of listeners; correct?

20 A My answer is the same as it
21 was when you asked before, yes, correct.

22 Q And the second one speaks
23 about the perceived age target of the
24 music; correct?

25 A The second bullet point,

1 P. Ferro

2 give me a second, let me just read it.

3 Q The second key finding.

4 It's actually not a bullet point.

5 A The second key finding, "The
6 perceived age target of the music and of
7 the Steve Harvey morning show are older
8 than the natural order of the format. In
9 other words, listeners perceive the music
10 and the Steve Harvey morning show to be
11 targeted to people in the 40's or older.
12 That means we need to be mindful that we
13 need to do some work to broaden the
14 perceived age target to be more inclusive
15 of younger listeners."

16 Yes, okay.

17 Q So earlier when I asked you
18 how you were going to broaden the
19 perceived target, I asked you whether
20 that was to include younger listeners. I
21 believe you disagreed with me; is that
22 right?

23 MR. MORO: Object to form.

24 A No. I said we had to
25 broaden it and then you grilled me on it

1 P. Ferro

2 and that's the only place where there's
3 growth and I agreed with you. I
4 didn't --

5 Q So you agree the way you
6 were broadening the audience was to
7 introduce younger listeners; correct?

8 A Correct.

9 Q Look at the next page and
10 that's finding 3.

11 A Okay. The next, all right.

12 Q Yeah.

13 A Will you give me a second to
14 read it?

15 Q Sure.

16 A Great. "Even if we do a
17 great job convincing current" --

18 MR. MORO: Just when you're
19 reading, slow down. People have a
20 tendency to speak quickly and the
21 reporter is taking it down.

22 THE WITNESS: Oh, I'm sorry.
23 Should I be reading this out loud or
24 to myself?

25 Q You should read it to

1 P. Ferro

2 yourself. I'm going to ask you a
3 question about that paragraph.

4 A Okay. Yes.

5 Q In that paragraph you refer
6 to a cume issue. What does that mean?

7 A Again, I didn't write this,
8 this was written by Kevin, but I know
9 what he means. Cume issue is tune in.
10 So what he's referring to here is that
11 we -- to grow and to broaden, we need to
12 get her cume, more tune in from people in
13 the 35 to 44 demo and he suggests
14 marketing.

15 Q Did you refer to -- ever
16 refer to BLS as the biggest money maker
17 for MediaCo?

18 A Yes.

19 Q All right. I'm going to
20 show you some documents. Some of them
21 are going to be spreadsheets, so what
22 you'll have to do, I'll identify them,
23 but you'll have to open them on the
24 computer with the link using a
25 spreadsheet because I don't think Exhibit

1 P. Ferro

2 Share will allow you to open a
3 spreadsheet in native format.

4 So let me start with --

5 A Valdi, I apologize, I'm
6 going to turn my computer up a little bit
7 because I wear progressive lenses and my
8 neck is killing me.

9 Q Yeah. Fine. Whatever is --

10 A Sorry about the angle.

11 Q I don't want you to be
12 uncomfortable in any way.

13 Actually, the first one will
14 just be a PDF document, so let me just do
15 that first.

16 (The above-referred-to
17 e-mail chain was marked as Exhibit
18 Ferro 3 for identification as of this
19 date.)

20 Q It should be up now. I'll
21 identify it for you. It's Ferro Exhibit
22 3 it's Emmis numbers 370 to 371. Tell me
23 if you recognize that document,
24 Mr. Ferro.

25 A May I --

1 P. Ferro

2 Q Just take a look at it,
3 review it and then tell me if you
4 recognize it, yes or no.

5 A I mean I recognize it as an
6 e-mail that Rick sent, yes, I do.

7 Q And then Rick sent an
8 e-mail -- by the way, who is Rick? I'm
9 referring to Rick Cummings.

10 A Rick Cummings is the
11 president of programming for Emmis and he
12 is still one of my consultants here, so
13 he's a person that I hire and pay monthly
14 retainer for his consulting services, his
15 experience, you know.

16 Q And there's an e-mail from
17 you dated June 24, 2018 at 7:25 a.m.
18 where you attach or embed what looks like
19 a chart. Do you see that?

20 MR. MORO: Objection to
21 form.

22 A Yeah. Yeah, I see it.

23 Q The first chart says May to
24 June and then has a list of stations with
25 some numbers next to it. Do you see

1 P. Ferro

2 that?

3 MR. MORO: Can I just
4 clarify we are not referring to an
5 attachment to this e-mail, right?

6 MR. LICUL: No. We are
7 referring to the text of the e-mail
8 that appears to include a chart.

9 MR. MORO: Okay.

10 A Yes.

11 Q So where it says May to
12 June, for example, next to BLS it says
13 22.1 to 22.8. What do those numbers
14 represent?

15 A You might want to grab a cup
16 of coffee for this one because the
17 explanation is long. I'll try to --

18 Q Well, what does 22.1
19 represent? What does that number mean?

20 A Raw meters.

21 Q And when it says 22.1 to
22 22.8, is that the increase in raw meters
23 from May to June?

24 A Yes.

25 Q What are raw meters?

1 P. Ferro

2 A We had the conversation
3 earlier of how ratings are captured using
4 a device that looks like a beeper. On
5 Sundays I have access to what I call a
6 web report. I have access to those
7 meters. I don't have proprietary access.
8 Anybody that subscribes to this system
9 has it.

10 And I go in and I take a
11 look at meter carrier behavior. It is
12 not used for currency or anything other
13 than to let us know if we are doing okay.
14 It's a quick health check of the week
15 before.

16 Q What is 22.1 measuring?

17 MR. MORO: Are you done?

18 THE WITNESS: I am. I mean
19 I can go on forever.

20 A So 22.1 to 22.8 means that
21 in the entire universe of everybody using
22 a meter, that means people aged from 6
23 years old to infinity, on average per
24 minute BLS had from Monday through Sunday
25 from 6:00 in the morning until midnight

1 P. Ferro

2 an average of 21 people with meters
3 tuning in per minute.

4 So 22.1 to 22.8, it's nice
5 to see that, but it's -- the way I would
6 read that is we went from 22 to 23
7 because it rounds that way.

8 Q Take a look at the next
9 document. You should be able to see it
10 in a second. It is Ferro Exhibit 4,
11 Bates numbers 418 through 429. It's a
12 series of charts.

13 (The above-referred-to
14 charts were marked as Exhibit Ferro 4
15 for identification as of this date.)

16 Q What are these charts?

17 A Allow me a second here to
18 peek.

19 Q Sure.

20 A So we are looking at the New
21 York Metro. We are looking in this chart
22 here at Hot 97 in particular. We are
23 looking at demo of 25 to 54 and the dark
24 blue lines are -- it is a three month
25 average of, let's see here, it is a three

1 P. Ferro

2 month average of morning show -- I want
3 to say this is weekly tune in and then
4 the light blue chart is the one month
5 trend and it looks like at that point Hot
6 97, 25 to 54 had a .4.

7 Q I'm looking at the first
8 page of this --

9 MR. MORO: Were you done?

10 Q -- which is Emmis 418.

11 A Hold on. This is data from
12 2018.

13 Q Right, so data from 2018.

14 On the left hand side of
15 that chart it says AMD I believe. What
16 does AMD stand for?

17 A It stands for morning drive.
18 It's an abbreviation.

19 Q For morning drive?

20 A Correct.

21 Q And what is this measuring?

22 A It is measuring the -- it
23 looks like it's measuring the tune in
24 based on cume to Hot 97's morning show
25 from January of 2009 until April of 2018.

1 P. Ferro

2 Q And so if you look at where
3 the chart starts, it starts in June, what
4 looks like June of 2018; correct?

5 A Give me a second. Let me
6 take a look.

7 Q Sure.

8 A It starts in June of 2015
9 and --

10 THE WITNESS: I don't know.
11 I touched something.

12 MR. MORO: Sorry, my screen
13 is touch screen.

14 THE WITNESS: Sorry.

15 A It starts in June of 2015
16 and then you see where it says January
17 '16?

18 Q Yes.

19 A Yup. And then fast forward
20 January '17 and then January '18 and then
21 the last month is March of 2018.

22 Q So let's look at June of
23 2015 when the chart starts.

24 A Okay.

25 Q The blue line is somewhere

1 P. Ferro

2 between 24,000 and 26,000 on the AMD
3 column. Do you see that?

4 A Right and just for --

5 Q Just do you see it? Do you
6 see it?

7 A Yes.

8 Q What does the 24 to 26,000
9 represent?

10 A It's a column and AMD is
11 just a descriptor for the morning show.
12 It's not an AMD column. I just want to
13 point that out just so you know.

14 Q This is a chart; right?

15 A Yes.

16 Q One of the axis is described
17 as AMD. Do you see that?

18 A Correct.

19 Q And in June of 2015, the
20 blue line is between 24 and 26,000. Do
21 you see that?

22 MR. MORO: Objection to
23 form.

24 A Yes. I see that.

25 Q The blue point starts

1 P. Ferro

2 somewhere before 24 and 26 -- sorry. The
3 blue point starts 24,000 and 26,000;
4 correct?

5 MR. MORO: Objection to
6 form.

7 A Yes. I see that.

8 Q What is that number between
9 24 and 26,000 measuring?

10 A That is -- I want to say
11 that that is a daily cume.

12 Q So that's the number of
13 people listening at any point; correct?

14 MR. MORO: Objection to the
15 form.

16 A For this time period in this
17 demographic, yes.

18 Q Right. And that's the 25 to
19 54 demographic; correct?

20 A That is correct, yes.

21 Q So for the June time period,
22 it appears that there are somewhere
23 between 24 and 26,000 people listening at
24 some point to the morning show within
25 this demographic; correct?

1 P. Ferro

2 A Yes. Correct.

3 Q All right. Can you go to
4 what's Bates numbered 425?

5 MR. MORO: Same document,
6 right?

7 MR. LICUL: It's the second
8 to last page.

9 Q Before we do that, I'm so
10 sorry, can you get to the first page
11 again?

12 A Okay.

13 Q Are you back there again on
14 the first page, which is page 418?

15 A Yes.

16 Q Do you see in addition to
17 the light blue and dark blue lines, there
18 are what appears to be orange lines going
19 across, three orange lines going across?
20 Do you see that?

21 A I do.

22 Q What do those represent?

23 MR. MORO: Object to form.

24 A Those represent the lower
25 end of the threshold for the 0.4 rating.

1 P. Ferro

2 The midpoint -- so the lower end is
3 28,000, the midpoint is 32,000 and the
4 high point is 36,000 and what that means
5 is you can have a .4 and have 29,000
6 average quarter hour persons and you can
7 have a .4 and have 35,999 average persons
8 and you would still have a .4. It's very
9 compressed.

10 Q But if you're below 28,000,
11 then you are below a .4; correct?

12 A That is correct.

13 Q And if you're above 36,000,
14 then you're above a .4; correct?

15 A That is correct, yes.

16 Q But you see at the end of
17 those lines beginning in or about what
18 looks like September of 2017, it looks
19 like those orange lines dip down a little
20 bit. Do you see that?

21 A I do see that, yes.

22 Q Do you know why that is?

23 A There's a lot of seasonal
24 variance. When I explained earlier they
25 like looking at ratings year over year

1 P. Ferro

2 because of behavior and what happens when
3 you look at ratings and you look at
4 September, it's not the calendar month of
5 September, you're actually looking at
6 August data.

7 It's -- Valdi, just so you
8 know, you know, there's 13 books a year,
9 not 12 because every book is 4 weeks and
10 if you do 4, you know, multiply 4 by 12
11 you don't get --

12 Q Right.

13 A So when you see a number for
14 September, you're really looking at
15 behavior for August and school doesn't
16 start and behavior doesn't start to come
17 back until past that time period.

18 If you go back you will see
19 dips, seasonal dips that happen, you
20 know, in September of pretty much every
21 year. It's seasonal --

22 Q Okay.

23 A -- so that's --

24 Q Okay.

25 A I'm being long winded. I

1 P. Ferro

2 know you don't like that.

3 Q No, it's fine. I just
4 wanted to -- it's fine.

5 Take a look at page 425.

6 MR. MORO: I'll find it.

7 MR. LICUL: Let me know when
8 you're there.

9 MR. MORO: I got it, 425.

10 A Is that 425? Okay.

11 Q The name of the chart looks
12 like Audience Flow Versus PUMM, P-U-M-M,
13 Current Month VS 3 Month Average. Do you
14 see that?

15 A I do. I'm very familiar
16 with this chart, yes.

17 Q What is PUMM? Is that the
18 way you pronounce it?

19 A Yeah. PUMM is correct and
20 PUMM is people using measured media, so
21 it's everybody that has a meter.

22 Q And if you take a look at
23 the left axis, there are percentages. Do
24 you know what those percentages
25 represent?

1 P. Ferro

2 A Yes. It's an index
3 percentage.

4 Q What do you mean by index
5 percentage?

6 A So if indexes is 100 -- so
7 I'd have to explain the whole chart to
8 you.

9 Q You couldn't just explain
10 what those percentages are?

11 A Yeah. The graph that tells
12 us how far above the market PUMM line our
13 shows are. So when the blue peaks happen
14 above purple, that's what you expect,
15 that's good and for a radio station like
16 Hot 97 this is -- looks typical and looks
17 normal.

18 Q So ideally you want to be
19 above that purple line; correct?

20 A In a perfect world, that's
21 like scoring a touchdown every time you
22 have the ball, yes.

23 Q And when you're below that
24 purple line, that means you're
25 underperforming your competitors;

1 P. Ferro

2 correct?

3 A No, that's not correct.
4 What that means is you are -- you are
5 like, for example, here at the lowest
6 point in the chart that we are looking
7 at, that means that we are 80 percent of
8 the available total audience.

9 So remember the purple line
10 is everybody, including AM radio,
11 everybody.

12 Q So your competitors could
13 also be below that; correct?

14 A Right. So if we were to
15 pull this chart for our competitors, the
16 purple line, if you're looking at these
17 months, the purple line would not change.

18 Q Right. But the blue and
19 light blue or green --

20 A Yup.

21 Q -- and blue lines would be
22 different for your competitors; right?

23 A Correct.

24 Q They may be above the purple
25 when you're below or vice versa?

1 P. Ferro

2 A That is accurate, yes.

3 Q Take a look at the last
4 page, the last few pages of this, which
5 are Bates numbers 428 to 429.

6 A Where do you see that?

7 MR. MORO: When he refers to
8 those numbers --

9 THE WITNESS: Got it.

10 MR. MORO: Let me zoom in
11 for you.

12 THE WITNESS: That's fine.
13 I can squint.

14 Q Just tell me when you've
15 gotten there and tell me yes or no, if
16 you recognize the document.

17 A I recognize this report,
18 yes.

19 Q Let's take a look at page
20 428. There's a part of a chart there on
21 the left-hand side, upper left that says
22 Date to Compare March 2017. Do you see
23 that?

24 A Yes.

25 Q And the first column says

1 P. Ferro

2 Day Part. Are those the various time
3 slots?

4 A Yes. That is correct.

5 Q And then next to that it
6 says AQH Persons. What do those numbers
7 represent?

8 A That is the average amount
9 of people listening at any average 15
10 minute time period.

11 Q To Hot 97?

12 A This is for Hot 97, yes.

13 Q So what this would show is
14 that, for example, from Monday to Sunday
15 6:00 a.m. to midnight, the average number
16 of people is 29,500; is that correct?

17 A That is correct.

18 Q All right. And AQH Rank,
19 the third column from the left, what does
20 that represent?

21 A That is -- what this report
22 looks at is in comparison to all the
23 other radio stations that you're -- that
24 are in the market.

25 Q So it would be ranked number

1 P. Ferro

2 4, meaning there would be three other
3 radio stations above the HQ -- AQH rank;
4 correct?

5 A Depending if there's a tie
6 but, yes, that is the rank. You know how
7 ties sometimes throw you off.

8 Q You could have multiple
9 number ones?

10 A Correct.

11 Q Now, Share, that's the share
12 that we were talking about earlier today
13 that you defined; correct?

14 A Correct. Yes.

15 Q That's the share of people
16 who are actually listening to radio;
17 correct?

18 A That is the share of people
19 aged 18 to 49 that Hot 97 attracted
20 during the period we are looking at.

21 Q But not in the total
22 population in the geographic area, but
23 rather of the number of people who are
24 actually listening to radio at the time;
25 right?

1 P. Ferro

2 A Correct.

3 Q Now, what is the next
4 column, Share Rank?

5 A The share rank is like
6 average quarter hour rank. It is where
7 you rank in the market for the specific
8 time period that you're looking at.

9 Q Next thing says AQH Rating,
10 what is that?

11 A That's what I was explaining
12 earlier. This is the rating point that
13 sales uses as currency to set pricing
14 for.

15 Q And is that the same rating
16 that would be in the ranker document we
17 looked at earlier?

18 A This would be the same piece
19 of information, yes. I just don't know
20 if it's the same month or --

21 Q Right. But it's measuring
22 the same thing; right?

23 A Correct.

24 MR. MORO: Objection to
25 form.

1 P. Ferro

2 A Yes, it is.

3 Q And rating rank, what does
4 that represent?

5 A Again, it's a ranker on the
6 rating point of the station that you are
7 looking at here versus the market.

8 Q And the next chart in the
9 middle then says Current Date. That's
10 the same data for a different time
11 period; correct?

12 A That is the same time period
13 seen year over year comparing March of
14 2017 to March of 2018.

15 Q And the green shaded boxes,
16 is that where the metrics are performing
17 above where they were the prior year?

18 A Yes.

19 Q And the red is where they're
20 performing below where they were the
21 prior year; correct?

22 A Yes.

23 Q And the clear one is just
24 where it's flat?

25 A Where it's flat, yes.

1 P. Ferro

2 Q The next chart says Nearest
3 Threshold. Do you see that?

4 A Give me a quick second.

5 Q Okay.

6 A Yes. I see it.

7 Q What does that represent?

8 A Do you remember when I
9 explained the three lines of the previous
10 chart where you are at the bottom of a
11 threshold, in the middle of a threshold
12 and then at the top of a threshold? This
13 at a glance tells you, you know, if you
14 are a .4, you know, are you at the bottom
15 of the .4 or at the top of the .4 so as a
16 programmer I can know if there's issues
17 with the brand.

18 Q So let's take a look at the
19 first entry there. Monday to Sunday 6:00
20 a.m. to midnight, there is a rating of .3
21 in the demographic of 18 to 49; correct?

22 A I'm sorry, what demo?

23 Q Sure. The nearest threshold
24 chart, do you see that?

25 A Okay. Nearest threshold

1 P. Ferro

2 chart, okay.

3 Q So just the first, the top
4 entry Monday to Sunday 6:00 a.m. to
5 midnight, do you see that?

6 A Yes.

7 Q And it says NTH ratings .3.
8 That's the rating we discussed earlier;
9 correct?

10 A That was the rating, let's
11 see here --

12 MR. MORO: Objection to
13 form.

14 A Give me a second here. Hold
15 on a second so I can explain it. If we
16 were to lose 2,500 average quarter hour
17 people and to get us to 29,000, this year
18 we would have a .3 whereas last year with
19 29,500 we had a .4.

20 Q Right. So you'd have to
21 reach 29,000 to get to the .4; correct?

22 A Correct.

23 MR. MORO: Valdi, can I stop
24 you for a second? It's after 6:00
25 and we've been going for quite some

1 P. Ferro

2 time.

3 MR. LICUL: Sorry, I
4 couldn't hear you.

5 MR. MORO: Sorry about that.

6 MR. LICUL: Do you want to
7 take a break?

8 MR. MORO: Well, yes, if
9 you're open to it, but also wanted to
10 see where you think you're at. How
11 much time you need and also if we can
12 get --

13 MR. LICUL: Maybe a half
14 hour, 45 minutes.

15 MR. MORO: -- a count as to
16 how much time we have left on the
17 record?

18 MR. LICUL: Yeah. Maybe
19 half hour, 45 minutes.

20 MR. MORO: Lisa, do you have
21 a start and stop time for the breaks.
22 We can go off the record.

23 (Time noted: 6:03 p.m.)

24 (A discussion was held off
25 the record.)

1 P. Ferro

2 (Time noted: 6:11 p.m.)

3 MR. MORO: So before our
4 prior break, plaintiff's counsel
5 has -- not plaintiff's counsel, the
6 court reporter had informed me that
7 we are at seven hours of record time.
8 As a gesture of good faith, we are
9 going to have the witness available
10 for another 10 minutes. I think that
11 is more than sufficient especially in
12 light of the fact that defendants
13 have previously made an application
14 for more time to depose plaintiff,
15 which plaintiff opposed and we had to
16 split seven hours among ourselves.

17 So this 10 minutes is going
18 to be the end of the deposition from
19 our perspective and, Valdi, if you
20 want to make an application to the
21 Court on that you're welcome to do
22 so.

23 MR. LICUL: Fine. I think I
24 can probably get it done in 10
25 minutes.

1 P. Ferro

2 Just to be clear on the
3 record, at the end of Ms. Scott's
4 deposition nobody had any more
5 questions left, but let's see if we
6 can just avoid this and get past it.

7 Q So Mr. Ferro, take a look at
8 what I'll mark as Ferro Exhibit 5, which
9 is Emmis 358.

10 (The above-referred-to
11 e-mail was marked as Exhibit Ferro 5
12 for identification as of this date.)

13 Q Take a look at that and tell
14 me if you recognize that document, yes or
15 no.

16 A It is an e-mail from Rick to
17 Jeff.

18 Q Just tell me yes or no.
19 Sorry, I don't mean to interrupt you, but
20 that's my only question.

21 A I haven't seen this document
22 before. It's an e-mail from Rick to his
23 bosses.

24 Q Take a look at what looks
25 like a chart under WBLS. There are a

1 P. Ferro

2 bunch of numbers and days on that. Do
3 you see that?

4 A I don't see a chart. I see,
5 you know, 5th Monday through Sunday 4 to
6 6, is that what you mean?

7 Q When it says, for example,
8 take a look at Hot 97, about three, four
9 lines down it says 3rd mornings, do you
10 see that?

11 A I do, yes.

12 Q What does the 3rd represent?

13 A It means it's ranked 3rd
14 in -- that means that Hot 97 for this
15 particular period, July week 2, was 3rd
16 in the market. I don't see a demo.

17 Q And so the number next to
18 that that says 6.6, is that share?

19 A Correct.

20 Q Share of what?

21 A Share of the pie that we
22 discussed earlier. That means that we
23 had 6.6 share of the pie the week before.
24 This week it's a 6.6. However, the
25 rating point drops from a .4 to a .3,

1 P. Ferro

2 which is not -- which it happens.

3 Q All right. That's all I
4 wanted to know about that document.

5 Okay. A question for you,
6 did you ever discuss with Shaila her
7 doing more digital work?

8 A I personally did not.

9 Q Did anyone?

10 MR. MORO: Objection to
11 form.

12 A I do know that Brad had
13 conversations with Shaila to do more
14 digital work. As a matter of fact, we
15 are designing our new studios that will
16 have cameras and he told her, he said we
17 will eventually have cameras in the
18 studios and what Brad told me was she was
19 very opposed to it.

20 Q What did he say about her
21 being opposed to it?

22 A That she didn't want to be
23 on camera and didn't want to do digital
24 content.

25 Q That's what Brad told you

1 P. Ferro

2 that Shaila said to him; correct?

3 A That's what I remember of
4 the conversation, yes.

5 Q When did this conversation
6 with Brad take place?

7 MR. MORO: Objection to
8 form.

9 A Well over a year ago. A
10 year and-a-half ago.

11 Q Do you see -- do you recall
12 anything in writing, e-mails, memos,
13 personnel files memorializing Ms. Scott's
14 purported objection to doing anything
15 digital?

16 A I have not seen any
17 documentation, no.

18 Q Other than that one
19 conversation with Brad, do you know of
20 anyone else who spoke to Ms. Scott about
21 doing digital work?

22 MR. MORO: Objection to
23 form.

24 A Brad is the person that I
25 most interact with in the company and I

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P. Ferro

just don't interact with other people as much, so I don't know if anybody else had the conversation with her. I don't know if Cynthia did.

Q So other than Brad, you don't know of anyone else who had a conversation with Ms. Scott about doing digital work; correct?

(Continued on the next page to include the jurat)

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P. Ferro

A That is a correct statement.

MR. LICUL: I don't have any
further questions.

MR. MORO: Nothing from me.

MR. LICUL: Shawn?

MR. CLARK: No questions.

MR. LICUL: All right.

Thank you all and we'll see you guys
next week.

(Time noted: 6:16 p.m.)

PIO FERRO

Subscribed and sworn to

before me on this _____ day

of _____, 2023.

NOTARY PUBLIC

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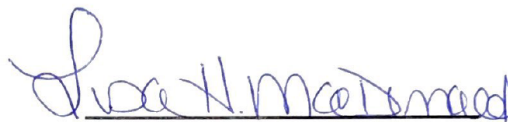
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C E R T I F I C A T I O N

I, LISA H. MACDONALD, a Registered Professional Reporter and a Notary Public, do hereby certify that the foregoing witness, PIO FERRO, was duly sworn on the date indicated, and that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

A handwritten signature in blue ink, reading "Lisa H. MacDonald", is written over a horizontal line.

LISA H. MACDONALD, RPR

(NOTARY PUBLIC) MY COMMISSION EXPIRES: _____

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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